08.03.04

RECORD OFFICE
HOUSE OF LORDS
WITHDRAWN
FROM STOCK

TABLE TALK OF JOHN SELDEN

'But the French (said I) have the art of accommodating literature.'

Johnson : 'Yes, sir : we have no such book as Moreri's Dictionary.'

Boswell : 'Their *Ana* are good.'

Johnson : 'A few of them are good : but we have one book of that kind better than any of them ; Selden's *Table Talk*.'

BOSWELL : *Journal of a Tour to the Hebrides*, Oct. 14, 1773, p. 369 of ed. Chapman, 1924.

Joannes Seldenus

Ex Tabula in Bibliotheca Bodleiana

A van Dyke pinx.

John Faber Junior fecit 1743

Emery Walker ph. sc.

TABLE TALK OF JOHN SELDEN

NEWLY EDITED FOR THE SELDEN SOCIETY BY THE

RIGHT HON. SIR FREDERICK POLLOCK, BT.
K.C. D.C.L. LL.D.

FROM A MS. HITHERTO UNCOLLATED BELONGING TO
THE HON. SOCIETY OF LINCOLN'S INN

TOGETHER WITH AN

ACCOUNT OF SELDEN AND HIS WORK

BY THE LATE

SIR EDWARD FRY

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INTRODUCTION

The Origin of the Present Edition

This volume is the Society's answer to requests communicated within the last year or two by our American corresponding secretary Mr. Richard W. Hale, desiring that both for the honour of our chosen patron and for the use of our members the Society would issue some adequate and convenient information about Selden and his work. In fact existing monographs are meagre, and there was no satisfactory general account until Sir Edward Fry wrote his article for the *Dictionary of National Biography*. That article is so complete as to leave no reason for producing a new life even if such a work were within the scope and means of the Selden Society; but the D.N.B. is not everywhere easily accessible in England, not to speak of America. We therefore sought the permission of the Clarendon Press to reprint this excellent piece of work for our members, and it has been generously accorded. At the same time it was brought to the notice of our Council that since 1909 the Hon. Society of Lincoln's Inn had possessed a MS. of Selden's *Table Talk* believed to contain readings better than those of the printed editions, including Reynolds's much improved text of 1892. We therefore asked the Bench of Lincoln's Inn for leave to collate and edit this MS., and it was willingly granted on the recommendation of the Library Committee. The resulting emendations have more than fulfilled the promise of preliminary examination. Thus the most readable

contribution made by Selden (though posthumously and without any sanction of his own) to English letters is offered to our members in a new and better recension (how much better will presently appear), together with Sir E. Fry's general account of the author.

The copy of the *Table Talk* here made public (which, as a member of Lincoln's Inn, I may call ours in a double sense) was not and could not be known to the late Mr. Samuel Harvey Reynolds [1] in 1892, when the Clarendon Press brought out his excellent edition, the best then possible, based on the British Museum MSS. Had he been still with us, he would have been the proper person to complete the work he had so well begun and give us a finally revised text. As it is, the more limited task of editing this unique MS. falls to me as Literary Director of the Selden Society, and it is the more welcome because the *Table Talk* has been a favourite book of mine for more than half a century. At some not distant day I hope the Delegates of the Clarendon Press will undertake a new issue of Reynolds's edition, taking account of the emendations now made certain or highly probable. Otherwise the notes would stand with no great addition and very little correction ; in the main they are hardly to be bettered.

The Merits of Selden's Table Talk

Literary comment on the merits of the *Table Talk* has not been abundant, but the judgment is unanimous. I know no better statement of it than my old friend Mr. Herbert Paul's in his essay headed ' The Autocrat of the Dinner Table ' (in ' Men

[1] Scholar, clergyman, journalist (1831–1897), see account of him and his works in the Supplement to the D.N.B. His early essay on Dante (1861), in his posthumously collected ' Studies,' gives him a place among the pioneers of modern Dante scholarship in England.

and Letters,' London, 1901): 'Except Bacon's Essays there is hardly so rich a treasure-house of worldly wisdom in the English language as Selden's *Table Talk*.' This excellent essay is the only one specially devoted to our subject that I have met with, and is now a quarter of a century old, the awkward age at which most books, except such as make themselves in some way necessary, have lost the freshness of youth and are not yet ripe for antiquity. Therefore I make no apology for quoting from Mr. Paul a very sound vindication of Selden's good manners against Mr. Reynolds's remark (Introduction to ed. Reynolds, p. x) on 'the insertion of several indecent references and expressions.' 'I cannot help thinking,' says Mr. Paul, 'that Mr. Reynolds was too severe upon his indecency. There are perhaps half a dozen passages which a delicate taste might censure. But we have no reason to suppose that they were uttered in the presence of women, and they are purity itself when compared with the habitual converse of the succeeding age.'[1] One may even doubt whether anything has been gained in decency by the nineteenth-century convention (for it is little earlier) of writing clumsy paraphrases in place of short classical and scriptural words which were themselves euphemistic in earlier days. In any case Mr. Milward, presumably a man of sober conversation, was not offended; nor was Dr. Johnson, otherwise his praise would not have been unqualified. It is perhaps more remarkable that Johnson did not utter even a word of regret for Selden's Whiggery.

As to the historical importance of the *Table Talk*, I may repeat what I wrote long ago in an unsigned review of Mr. Reynolds's edition. It is a book to be known, I would even say to be well known, by every one who makes any study of the political

[1] In a learned person's diary, kept when Selden was a young student, serious notes of sermons are found in company with passages which the modern editor thought unfit for publication: see J. Bruce, preface to the Diary of John Manningham (1602–1603), Camden Soc., 1868.

controversies of the Civil War and Commonwealth period or of English political philosophy. Selden's writings were works of special erudition, and he could not become, like Hobbes and Locke, a classic in the literature of politics. But none the less he was in fact among the fathers of that school of political thought which remodelled the English constitution in the following generations and was dominant until the time of Burke, or rather until the world had had time to understand him. I have only to add that attention is now called in the notes to the passages where Selden appears to point the way to Locke.

It is rather tempting to speculate on what Selden's fortune would have been if he had lived five or ten years longer. Doubtless he would have accepted the Restoration—a restoration, it must be remembered, of Parliament as well as of the King—like other Parliament men holding moderate opinions. He was at no time a republican in doctrine, and he was no more disposed to tolerate puritanical than prelatical oppression. Relief from illiterate precisians and return to a known frame of public authority would have been welcome to him. Having never been actively hostile to King Charles I. he would have been in no more danger than Sir Matthew Hale. Indeed it seems likely that some honourable position would have been offered to him, though not very likely that he would have taken it. What would the sequel of his talks with Hobbes have been like? Would he have been on terms of acquaintance with Milton? He must have appreciated the poet and the scholar, however much he disliked the controversial politics of Cromwell's Latin secretary. But enough of these dreams, for any man may spin them at his own pleasure.

The statement made in Singer's preface and repeated in Sir E. Fry's article in D.N.B. (p. 177, below), that doubt has been thrown on the genuineness of the *Table Talk*, appears to be an error founded on hasty reading of Wilkins's extract (Preface to

Works, 1726, vol. 3, *ad fin.*) from a notice in a supplemental volume of the *Acta Eruditorum*. The only doubt suggested by the learned writer (who truly though superfluously observes that many passages are not such as Selden would have cared to publish) is whether Milward had really settled his notes for publication. Wilkins adds nothing of his own beyond a general commendation of this account as just and true. No doubt he disliked the book and would have liked to reject it if he could. In his Latin life of the Author prefixed to Selden's works he says that much of the *Table Talk* does no credit to Selden's learning and is not in accordance with his character (vol. 1, p. xlv): which proves only that a relish for homely English wit was not added to Wilkins's Hebraist and archidiaconal accomplishments. A fact unknown to the writer in *Acta Eruditorum*, namely that the alphabetical order of the contents is imperfect in all known MS. copies, and not wholly correct in the old editions, does indeed suggest that Milward never completed the arrangement of his material, or at best left it in loose sheets easily disordered. But that is a different matter.

The Printed Text

The Rev. Richard Milward of Trinity College, Cambridge (1609–1680), who died vicar of Isleworth and a Canon of Windsor, was Selden's secretary for many years and took notes of his talk for ' twenty years together ' down to some time near the end of Selden's life in 1654. Having digested these notes under alphabetical rubrics he wrote a covering letter of dedication to Selden's executors, not dated, which is prefixed to all the editions. The letter says nothing about publication ; Milward's intention seems to have been to leave that matter wholly to the executors' discretion. Apparently he never quite finished the arrangement

of his fair copy, for in all the known MSS. a certain number of headings and paragraphs are not in their proper alphabetical order; and it seems a matter of great doubt whether the MS. was delivered to Selden's executors at all. It may be presumed from the literary habit of the time that some friends of Selden's or Milward's were allowed to make or bespeak copies for their private use. The book was first printed in 1689, from what copy or by whose authority (if any) does not appear, in a thin small quarto; I have seen but not collated a copy. There is one typographical oddity, the use of smaller type at the foot of p. 42 and in the whole of pp. 43 and 44. The circumstances would not lead us to expect a satisfactory text; and, whatever faults the printer may have added, he certainly had a bad copy to work from. Perhaps the publisher was eager to forestall an apprehended rival and took the first MS. he could lay hands on. In fact there is a memorandum, unluckily vague as to date, showing that at some time there was an intention of printing the book from the MS. Harl. 1315, which would have given us a much better vulgate.[1] Nothing, however, can be affirmed with confidence; and in any case there is no word of Selden's executors having been consulted by any one, or having offered to take any action. The remaining solid fact is that the original edition of 1689 was a bad edition, whether the publisher was or was not anything better than a pirate. No material improvement was made on it for two centuries. The printer's one merit was that he reduced the dislocated headings of which all known MSS. bear witness to a tolerable though not exact alphabetical order.

[1] See p. xii of Reynolds's introduction, where he points out that there is some confusion. A surmise in the D.N.B. article on Milward that this Harleian MS. was in fact used for ed. 1696 appears to be due to misunderstanding of Reynolds. This memorandum had already been noticed by Singer; it is rather strange that it did not lead him to pay more sustained attention to the Harleian MS. in which it is found.

Archdeacon Wilkins's reproduction in vol. 3, part 2, of Selden's collected works in folio (1726) presents minor variations from the ed. pr. of 1689. Some of these are obvious blunders, most appear to be conjectural amendments. I believe these are the printer's, and I see no reason to think any MS. was consulted. Wilkins, taking as he did no interest in the book, was not likely to trouble himself about the text; and, if he had undertaken to revise it in person, it is not credible that, being a distinguished Oriental scholar, he could overlook a manifest error in the one Hebrew word that occurs (see p. 62, below). Indeed it is expressly stated in his general Preface to the Works that he was unable to undertake the correction of the press.

In 1854 Dr. David Irving of Edinburgh produced an edition with learned notes, too exclusively devoted to ecclesiastical controversies; he consulted a MS. in the Advocates' Library (now the Scottish National Library) of which he was curator, but the ' several corrupted passages ' which he mentions in the preface as having been amended are not the worst, nor are they numerous. If we could assume his collation to have been complete we could only infer that this MS. is better but not much better than the printed vulgate. But in fact this is not so, for in one crucial passage, King of England, par. 5 (p. 64, below), Irving reprinted the old erroneous and confused text without remark, whereas I learn by the courtesy of the present librarian, Dr. Dickson, that the Edinburgh MS. agrees with ours and the Harleian copies in giving the correct reading. It would seem therefore that it belongs to the same family as the Harleian MSS. and is deserving of further examination whenever a final recension is taken in hand.

Irving published as a novelty the fact recorded in the West Tarring parish register, and learnt by him in 1818, that Selden's father was a professional musician. But that register was already quoted in Singer's edition of 1847, which Irving

apparently had not seen. However, Irving gives in one or two places useful references which escaped both Singer and Reynolds.

S. W. Singer edited the *Table Talk* in the middle part of the nineteenth century (1847, 1856, posthumous third edition, 1860). His work justly held the field until Reynolds's edition appeared. The notes may still be read with profit; they embody considerable contributions from an unnamed scholar whom W. Aldis Wright was able to identify with Edward FitzGerald,[1] and there are several good conjectures in which we may well suppose FitzGerald to have had a hand. Singer, it seems, had already been the anonymous editor of a reprint issued in 1818 at Chiswick.[2] His preface and notes show that he saw at least one of the Harleian MSS., namely 1315, but his inspection must have been of the slightest, otherwise he would have anticipated Reynolds's emendations. In fact he overlooked many manifest errors, yielding apparently to the half-conscious belief that nonsense must become sense if it is reprinted often enough, an illusion too common even among the learned. It is one thing to be a well-read and deserving antiquary and another to be a critical editor. If Singer had answered that description he would not have made changes in the text without notice, as he sometimes does. His edition was reprinted in 1890 by another publisher, with an unexplained addition of 'Spare Minutes,' an aphoristic tract by one Arthur Warwick, a seventeenth-century imitator (it seems)

[1] See Aldis Wright's note *sub anno* 1847, *Letters of Edward FitzGerald*, ed. 1894, i. 230. He says: 'I have in my possession a copy of the *Table Talk* which he [E. F. G.] gave me about 1871 or 1872, with annotations in his own handwriting, and these are almost literally reproduced in the Notes to Singer's Edition.' FitzGerald appears, with his characteristic reticence, never to have mentioned the matter to any other person.

[2] See the article on him in D.N.B., Sir E. Fry's list of edd. at the end of his life of Selden below, and ed. Irving, p. 28. The volume of 1847, one of Pickering's publications from the Chiswick Press, is much more handsomely produced than the later issues.

of Sir Thomas Browne: this is taken from a late eighteenth-century modernized reprint. It has nothing to do with Selden.

The mutual relations of Irving's and Singer's work seem to be rather odd. Irving knew of an early reprint attributed to Singer, but not of the edition of 1847. Singer seems to have seen Irving's edition before, but not much before, his own second edition went to press. This, however, is of no interest for us here.

Reynolds, in 1892, gave us the first critical edition of the *Table Talk*, founded on two Harleian MSS. in the British Museum, of which the earlier but by his account not the better may have been written in Milward's lifetime. They are both careful productions of good professional copyists. A Sloane MS. of intermediate date is described by him as the work of a half-lettered scribe (from my own cursory view I should rather say a hurried amateur) and full of blunders not worth recording. Reynolds was not curious, it seems, about his predecessors' work, at any rate he tells us next to nothing of it.

Meanwhile, in 1868, Edward Arber had reproduced the text of 1689 in his neat series of English Reprints (I use the adjective with its full seventeenth-century significance). He did not concern himself at all with variants or emendation. It makes a handy pocket volume with useful prolegomena and a list of intermediate editions (less complete, however, than Sir E. Fry's)[1]; those not here mentioned are believed to be of no importance. Having regard to Arber's repute as a scholarly editor, I have thought myself justified in relying on the accuracy of his reproduction, the rather that I have found him only once at variance with Singer,[2] and that in any case the printer of 1689 can claim no sort of critical authority.

[1] See p. 183 below.

[2] See p. 100 below. For once Arber made a slip, as I have verified in ed. pr. itself. Singer's emendations are of course not counted in this statement.

In the present volume I have not aimed at a final settlement of the text. Our MS. stands, in my judgment, in a class by itself, and the learned world is entitled to see it as a whole and apart, and to decide on that view whether, as for myself I think, we have here the best foundation for a future editor's labour. All I undertake here is to edit the Lincoln's Inn MS. not in facsimile nor even in what is technically called an apograph, but with (I hope) fidelity sufficient for all reasonable purposes. Of that MS. and its distinctive character, and what little can be guessed about its writer, I will now speak.

The Lincoln's Inn MS., its Writer and his Ways

The codex acquired by the Honourable Society of Lincoln's Inn in 1909 is of the latter part of the seventeenth century and is contained in a little square book of 78 leaves with a modern parchment binding. Its last owner was Mr. James Claude Webster of the Middle Temple, for many years secretary of the Athenæum Club. Nothing is known of its former history, save that at least once it was read with some care, for a nineteenth-century hand (not Mr. Webster's) made notes on small paper slips of important variants from the printed text, and inserted them at the proper places. This unknown reader does not seem to have called public attention to his results; if any such communication had been made it could not well have escaped Mr. Reynolds's research. I rather think his examination was never completed, for I have found no sign of it in the later pages of the MS.

At first sight the handwriting of the Lincoln's Inn MS. looks like the work of two or even three different scribes. But, with the guidance of Mr. Hilary Jenkinson, whom I have had the great advantage of consulting, I am satisfied that the whole may

well have been written by one man accustomed to use official as well as cursive forms. The contrary hypothesis, I need hardly say, is otherwise improbable; moreover the alternation of different styles in the first half of the MS. is against it. The scribe, then, shall be spoken of, *salvo meliore iudicio*, in the singular. He was a lawyer or an officer of one of the Courts, something of an amateur in calligraphy; he began with two artificial hands of the 'bastard' and 'secretary' types but not without italic variations; towards the middle he settled down to a current and mainly italic hand (though with survivals of other forms), small, precise, and rather ornamental, apparently that which he usually and naturally wrote. Perhaps he found that the stiff set hands went too slow, perhaps that they demanded too much space, possibly both.

He was but moderately learned; he could write Greek neatly when the usual crabbed ligatures of the time did not deform the letters; but his one attempt to copy Hebrew characters proves his total want of skill in that tongue. I think he was old, for although he could be vigilant on occasion his attention was not uniform; he often dropped out little words in a quite plain context, and there are a few odd vagaries.

At the end of the MS. there is an additional leaf with some eight extracts headed: Doctor Tillottson: The Epicurean Atheist, in the same current hand. Most of these are from Tillotson's well-known sermon on the Wisdom of being Religious, delivered at St. Paul's in March 1664 and published the same year. Hence we may infer that the scribe was an admirer of Tillotson, but we get no light on the date of our MS., for the writing must be considerably later than 1666, when Tillotson took his doctor's degree. On the other hand we cannot suppose that any man would be at the pains of writing out a whole book after it was in print, in this case after 1689. So we must be

content to date our MS. about 1685. The addition does show, however, that it remained in the scribe's possession, therefore that he made his copy for himself and not for an employer.

Our scribe's spelling is preserved, according to the usage now established in printing unpublished documents. The reasons for this are well understood by scholars, and I mention only one, the increased facility we gain by it for estimating the causes of textual corruption. To give examples, with modern spelling it is possible but not very natural to confound 'fairs' with 'friars,' but the difference between 'fayers' and 'fryers' is just one letter (see p. 74 below); and again when 'duly' is written 'duely' confusion with 'dully' becomes easier (p. 70).

This writer's fashion is archaic as compared with contemporary print, yet less archaic than it looks at first sight. Clarendon's orthography, which we now know from Mr. Nichol Smith's collation of his autograph MSS. preserved in the Bodleian ('Characters of the Seventeenth Century,' Clarendon Press 1918), is very like it. Educated writers had not yet come into line with the printers' convention of uniformity; their submission was indeed not complete in the early part of the nineteenth century. Jane Austen persistently wrote 'freind' as Clarendon had done before her. As to abbreviations,[1] the common y^t, y^s and the rest are retained as offering no difficulty to our members; I need hardly remind them that the *y* is not a real *y* but the ghost of a carelessly written Old English *thorn*. The terminal *-cōn*, standing for a modern *-tion*, is also retained; the contraction is often marked by a reverse flourish from the *n*. Frequent superfluous flourishes over fully written words are disregarded. On the other hand I print 'comon' without any mark over the *m* because the scribe constantly wrote it so. Internal abbreviations (of which

[1] The proper terms for various forms of abbreviation are explained in Johnson and Jenkinson's 'English Court Hand,' Oxford 1915, p. xxii.

those for *par, per, pre, pro* are the commonest) are expanded for the reader's ease and to avoid recourse to special types, but letters not actually written separately or by ligature in the MS. are always distinguished by square brackets. One or two merely graphical fashions such as writing *v* for an initial *u* and *u* for a medial *v* are disregarded as immaterial, and I should have done the same with the doubled initial *f* if the scribe's use of it had been constant; but as it is not, I have preserved his apparently capricious variations. Accidentally omitted words and syllables are restored in brackets; and so are a few obvious corrections. On the whole, then, there is a readable text, but with constant warning of what is in the MS. and what is not.

In the matter of punctuation I am unable to follow the scribe; his stops are so eccentric that they could be represented as they stand only at the cost of distracting or puzzling the modern reader several times in a page. For the satisfaction of learned persons a sample of the MS. is given in facsimile, and in the letter of dedication all the oddities are left standing. Perhaps I have left too many in the text.

Capitals present a difficulty which can be appreciated only by acquaintance with the MS. The scribe's intention is often not clear. He has, for instance, three distinct forms of the letter T, one of them certainly capital, another certainly minuscule, and the third, to the best of my judgment, ambiguous. In case of doubt I have followed present usage. At times, not often, I have exalted the scribe's minuscule (including the ambiguous *ff*) at the beginning of a proper name or a sentence, or deposed a too extravagant capital from an insignificant word in the middle. Certainly any Restoration printer would have dealt much less tenderly with his handiwork. Italics, where used for the reader's convenience, are editorial and do not correspond to any distinction in the MS.

I must not omit to express the thanks of all concerned to Miss C. M. Calthrop, whose clear and careful transcript of the MS. has greatly lightened our labour.

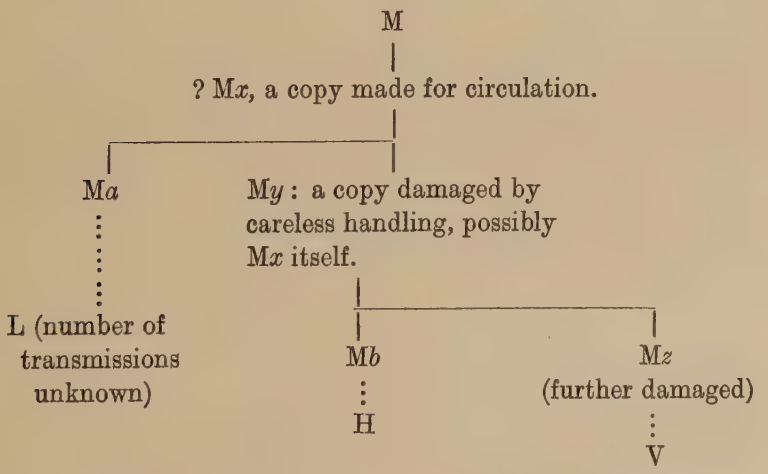
The Character of the Lincoln's Inn MS.[1]

Our MS. is one of six so far known. The British Museum has the three which Reynolds used, as above mentioned, and there is another in the Scottish National Library (formerly the Advocates' Library) at Edinburgh; it was used but not fully (see p. xiii above) by Dr. Irving. Another copy in the library of the House of Commons, which has come to light only in recent years, and to my notice since these pages have been in the press, is of the same type as the Harleian MSS., in some places not quite so good. I do not think the total number of MS. copies was large, but there may well be others in private collections, and the Selden Society would be thankful for information of any such. Actual date of writing is no clue to the value of the text. The latest of the British Museum copies is the best, and ours, which may be still more recent, is yet better, being derived, at how many removes is uncertain, from a good early transcript of Milward's lost fair copy. That transcript or one much like it suffered some damage from tearing or ink-spilling before it became the original of the Harleian MSS., and there was more and worse damage to a MS. of the same family before it became the parent of the hasty, perhaps surreptitious, copy procured by the printer of the ed. pr. in 1689, unless indeed we are to charge the scribe he employed with extremely gross negligence. It must not be supposed that the several transcribers had a faultless text to work upon in the first instance. A certain number of

[1] For this section I crave, as an amateur in textual criticism, the indulgence of experts.

manifest errors are common to all known copies and therefore were in their archetype. Was that archetype Milward's own fair copy, which has long since disappeared, or a copy made from it for the purpose of being lent out to friends who could be trusted with it? Let us call Milward's original M. He lived till 1680; he was not likely to part with the unique M in his lifetime. One is tempted to assume an M*x* which had a discreet circulation and was the practical archetype. Not that it matters, except that for Milward's credit one would like to put the blunders (for they are quite bad blunders) on the head of the hypothetical scribe of M*x*. Adding the symbols L for our Lincoln's Inn copy, H for the text of the two Harleian MSS. (practically one), and V for the old printed text, I will hazard a conjectural diagram.

PROVISIONAL PEDIGREE.



The Edinburgh MS. would seem to be of the Harleian family, and so is the House of Commons copy, but with my present

information I cannot place them more closely. In some such way, I conceive, the corruption proceeded. One objection must be noted: L has a few errors in common with V, which are not in H. But they are small and easy clerical slips which the scribes of L and V may have committed independently; I can see no other tolerably simple way of accounting for the fact. It seems pretty clear that some one copy passed from one careless hand to another and was at last in very poor condition. Its faults were probably aggravated by a hurried transcript made for the printer of 1689. That printer seems on the whole to be the least guilty villain of the piece. The conclusions now set forth are based on the cumulative evidence of the variants that occur on almost every page of the text; but the most decisive proof is in the passage under the title *Pope* (p. 98 below) where L and L alone supplies the missing last words of the sentence. In another place (p. 63) all other copies are more or less confused, while L gives a clear and intelligible reading. For the reader's convenience a table of the more notable emendations to be found in L is subjoined to this Introduction. Our codex has its own faults too, chiefly consisting in the casual omission of words which are easily supplied. They are marked in their places and seem to deserve no further notice. The improved readings of the Harleian MSS. as given by Reynolds are almost always confirmed by L.

One class of variants has a rather special curiosity.

Some of the differences between our MS. and all other known copies cannot be accounted for by clerical error, and appear to be explicable only as alterations wilfully made by some rather pedantic scribe in a copy from which the British Museum MSS. were derived, and also, at a further remove and after more mishaps, the text of the old printed editions. The most striking example of this process is in the title 'Measure of Things.' We

read in all copies except L, 'Bring a pear to the table that is rotten, we cry it down, 'tis naught; but bring a medlar that is rotten, and 'tis a fine thing'; and we suspect nothing amiss. But L gives the much more spirited and obviously genuine reading: 'Bring a medlar—O! 'tis a fine thing.' The dull copyist thought the reader had to be reminded that a medlar brought to table is always rotten. Less flagrant specimens of his handiwork will speak for themselves as they are noted in their places.

Now some reader may ask whether the foregoing rather minute and conjectural inquiry was worth the pains. At most we can attain to what Milward set down; except in those pointed short sayings which proclaim their form as authentic, we cannot be sure of having Selden's very words. Why not take the most acceptable readings as we find them without more ado? There is more than one reason. First, I have found the puzzle rather fascinating and think it may amuse a certain number of other students. Next, I have the future editor of a final text in mind, and hope that my attempt at a critical view of the materials may save him some trouble. Lastly, it may be useful to exhibit in some detail how far corruption may go, even in a learned age, in books not revised by the author. (Not that the acquiescence of an author who is not a keen-eyed proof-reader can be relied on at any time; the contrary is known to all good Janeites who give thanks for Mr. R. W. Chapman's excellent edition of Jane Austen's novels.) Print is no safeguard in itself, though not all educated readers know it; in the adventures of Selden's *Table Talk* we have a striking and I think an instructive illustration.

Besides all this, the practice of choosing among readings merely by their face values leads almost fatally to giving the reader not a considered judgment of what the author in fact wrote, but a guess at what he ought to have written. That procedure,

I think, is radically false, and not less false because it is common in our current editions of old authors from Shakespeare downwards. What is more, it is closely akin to the still worse fault of embarking on conjectural emendation when a little more knowledge and patience would show that there is no need for any correction.

EDITORIAL

My method of dealing with the MS. has already been explained, and at the opening of this Introduction I have given my reason for not undertaking a new commentary. Annotations (other than those on the state of the text, which are kept apart) are intended to be supplemental to Reynolds's, mostly from a lawyer's point of view. The one substantial addition is an excursus on the Estates of the Realm, a subject on which, in view of recent elucidation and discussion, I felt in duty bound to bring to Selden what suit (in the medieval sense) I might. Such occasional and not strictly necessary remarks as I have thrown in, to please myself, are too few to call for excuse.

Ben Jonson, in a copy of verses prefixed to Selden's ' Titles of Honor,' congratulates him on having purged many authors of Blots and Errors. The Selden Society's publication of our Lincoln's Inn MS. will, I trust, free our patron's discourses, as reported by a not infallible secretary and handed down by very fallible copyists, if not from all blots and errors, at least from the worst of those which remained.

In the critical notes V (*i.e.* vulgate) stands for the reading of other editions so far as known and not otherwise specified ; W for that of Wilkins's edition in Selden's collected works ; S for Singer, and R for Reynolds, whose text usually gives the concurrent reading of the Harleian MSS.

Notable Unique Readings of the Lincoln's Inn MS.

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21. *Bishops out of the Parliament,* par. 10. 'If my father cheat a man of his lands': the last three words are not in other copies.

24. *Books,* par. 8: 'and then I cite them,' for 'write them,' which is nonsense.

33. *Competency,* end of par. 1, adds 'enough and a little more,' which I incline to take for a gloss.

38. *Creed, ad init.*: 'for's' for 'force,' see note.

43. *Equity,* par. 2: 'make the standard for the measure we call a foot to be the Chancellor's foot,' confirming with slight verbal difference S.'s conjecture adopted by R.

47. *Fasting days,* par. 2: 'submitting to the punishment,' not in other copies.

63. *King,* par. 6: 'as if a man that stood upon the leads, and I being upon the ground' etc. For readings of other copies, all confused by omission of the word 'leads,' see the note.

70. *Law of Nature*: 'or why are these things against nature,' not in other copies.

72. *Liturgy,* par. 1: 'serve God themselves their own way': other copies omit 'God,' obscuring the sense.

76. *Measure of Things,* par. 1. See Introduction, p. xxii.

98. *Pope,* par. 6 *ad fin.* The words 'make up the same rope,' required to complete the sense, are in our MS. alone.

131. *Traitor,* last line: 'a duchess with an army,' not in other copies, an improvement though not necessary.

M^R SELDENS DISCOURSE[1]

OR

HIS SENCE OF VARIOUS MATTERS OF WEIGHT AND HIGH CONSEQUENCE

RELATING ESPECIALLY TO

RELIGION & STATE

DISTINGUE TEMPORA

To the hon^rble M^r Justice Hales, one of the Judges of The Common Pleas; [fo. 2]
And to the much hon^rd Edward Heywood, John Vaughan, Rowland Chewkes[2] Esq^rs

Most worthy Gentlemen

Were you not Ex^rs to That p[er]son who (when he lived) was y^e glory of y^e Nation; yet I am confident, anything of his would find acceptance w^th you; And truely y^e Sence and notion here is wholly his; and most of y^e words; I had the

[1] V. The discourse of John Selden, Esq.

[2] V. and Roland Jewks: Jewkes or Jukes is still a current name. I have never met with Chewkes and am at a loss to account for the variance. The errors 'Hales' for Hale, and 'Heywood' for Heyward, are common to all known copies. Of Jewks nothing seems to be known. Selden's 'Titles of Honor' was dedicated to Heyward in an elaborate epistle.

opportunity to hear his discourse Twenty years' Together and
[fo. 2b] Least all those excellent things ; that usually fell from him might be lost some of them from time to time I faythfully committed to wryting ; which here digested in to this method ; I humbley p[re]sent to yo^{r} hands. You will quickly perceive y^{m} to be his by y^{e} familiar illustracōns ; wherewth they are sett of ; in w^{ch} way you know he was so^{e} happy that (with a marvelous delight to those that heard him) he would presently convey y^{e} heighest points of Religion and y^{e} most important affaires of State to an ordinary apprehencion. In reading be pleased to distinguish times ; and in yo^{r} fancy carry along wth you ; y^{e} when and the why ; many of these things were spoken ; this will give y^{m} y^{e} more Life and y^{e} Smarter Relish. Tis possible y^{e} entertainm^{t} you find in them ; may render you y^{e} more inclinable to pardon y^{e} presumption of

Your most obliged
and most hum^{ble} serv^{t}
Ri: Milward.

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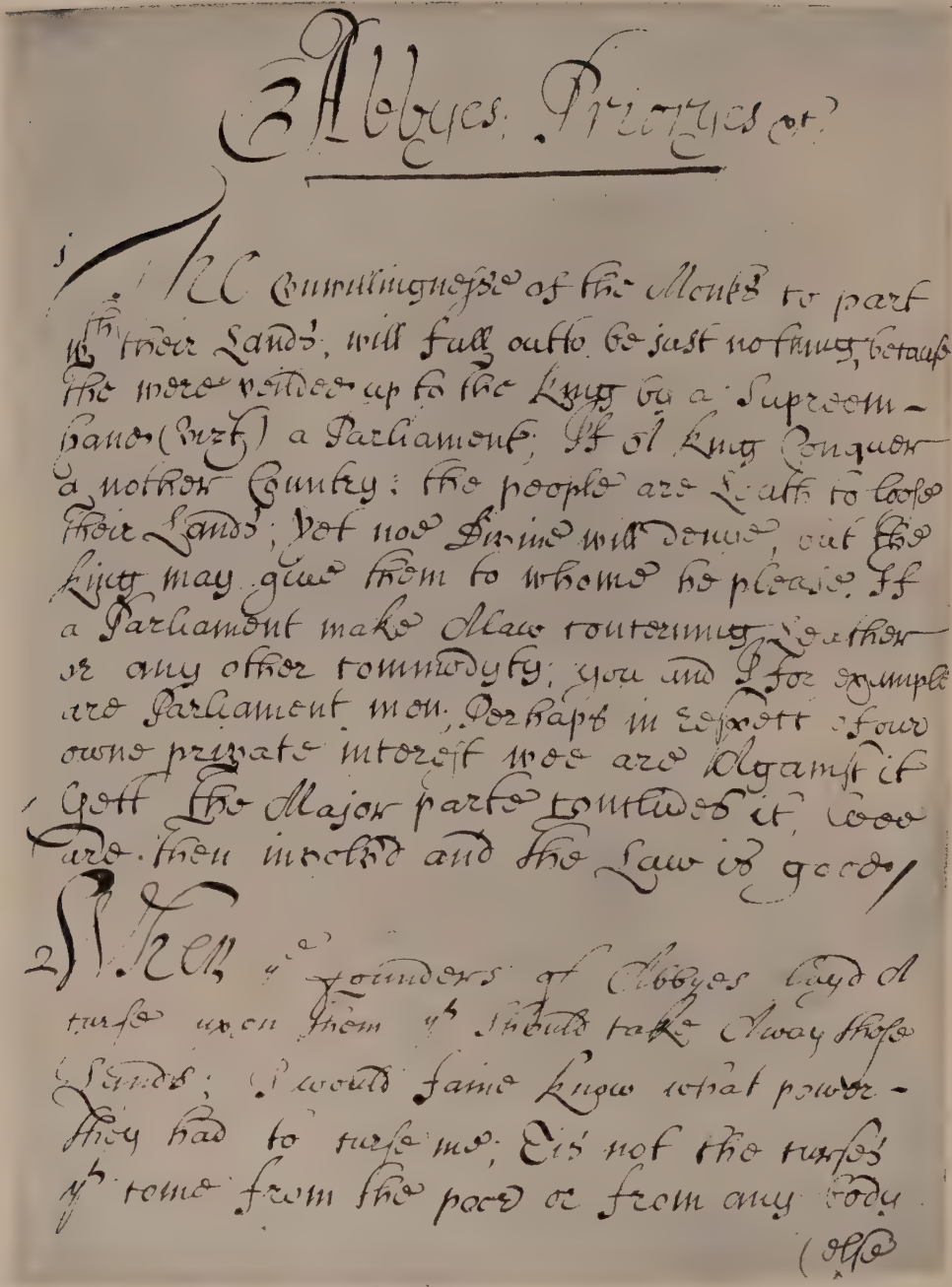

Abbyes. Priories &c.

1. All willingnesse of the Monks to part with their Lands, will fully auile to be just nothing, because the more yielded up to the King by a Supream-band (viz.) a Parliament. If ye King conquer a nother Country: the people are loath to loose their Lands; yet noe Diuine will denye, but the King may giue them to whome he please. If a Parliament make Law touching Religion or any other Commodity; you and I for example are Parliament men. Perhaps in respect of our owne private interest wee are against it. Yet the Major parte ouruleth it, wee are then inioyned and the Law is good.

2. All. ye Founders of Abbyes layd a curse upon them yt should take away those Lands; I would faine know what power they had to curse me; Is not the curses yt come from the pope or from any body

(else

Lincoln's Inn MS. First Page of Text (*slightly reduced*).

Text of MS. Title "Pope" (*slightly reduced*).

[THE DISCOURSE OF JOHN SELDEN]

Abbyes ; Prioryes etc. [fo. 5]

The unwillingnesse of the Monks to part wth their Lands will fall out to be just nothing, because the[y] were yeilded up to the King by a Supreem Hand (vizt) a Parliament; If A King Conquer a nother Country the people are Loath to loose their Lands; Yet noe Divine will denye but the King may give them to whome he please. If a Parliament make A law concerning Leather or any other Commodyty; you and I for example are Parliament men; Perhaps in respect of our owne private interest wee are Against it Yett the Major parte concludes it, We are then involv'd and the Law is good.

2. When y^{e} founders of Abbyes layd A curse upon them y^{t} should take Away those Lands; I would faine knowe what power they had to curse me; Tis' not the curses y^{t} come from the poor or from any body else[1] That doe me hurt, because they [fo. 5b] come from them, but because I doe some ill thing ag[ains]t them that deserves God should curse me for it; on the oth^{er} syde its' not a mans blesseing mee that makes me blessed; he onely declares me to be soe; and if I doe well I shall be blessed wheth^{er} any body blesse me or not.

3. Att the time of The dissolution they were very Tender in takeing ffrom the Abbotts and priors their Lands, and their houses till they Surrendered them (as most of Them did) In deed

[1] V. om. The addition in our MS. is an improvement though a small one.—The heading above is taken from R.

The prior of S^{t} Johns S^{r} Richard (*a*) Weston being A Stout man;
[fo. 6] gott into ffrance and stood out a whole year att last submitted And the King tooke in that Priory alsoe to which the Temple belonged; and many other houses in England. They did [not][1] Then cry noe Abbotts no priors as wee doe now noe Bishopps noe Bishop̄s.

4. Henry the 5th putt away The ffryers Aliens; and Seized to himselfe 100000*l.* (*b*) a year; and therefore they were not the Protestants onely that tooke a way Church Lands.

5. In Queen Eliz:^{s} tyme when all the Abbys were pulled downe all good workes defac'd then the Preachers must cry up Justificac̄on by fayth not by works.

39 Articles

[fo. 6*b*] The nine and thirty Articles are much another thing in latine (in w^{ch} Tongue They were made) then they are translated into English; They were made att three Sev^{r}all convocac̄ons and confirmed by Act of Parliam^{t} Six or Seaven times[2] after; There is a Secreet concerning them; of late Ministers have subscribed to all of them but, but by y^{e} Act of Parliam^{t} That confirmed Them; they ought onely to Subscribe to those Articles w^{ch} containe matt^{r} of fayth; and the Doctrine of The Sacraments as appears by the first Subscripc̄ons But Bishop Bancroft in the convocac̄on held in King James' days he begun it; that Ministers should subscribe to three things; To the Kings supremacy; To y^{e} Comon prayer; And to The 39 Articles; Many of Them doe not contain matter of ffayth It's[3] matter of

(*a*) So in all known copies, but it should be William, see Reynolds's note.

(*b*) Our MS writes j for the initial figure now printed 1 in modern fashion.

[1] MS. omits by obvious slip: supplied from V.

[2] *Sic* V. See Reynolds's note, suggesting that 'times' = 'sessions.'

[3] Is it V., It is R., *f.l.* Is't.

ffayth how The Church Should be governed; whethr infants should be baptized; whethr wee have any property in our goods &c.? [fo. 7]

Baptisme

Twas a good way to perswade men to be Christen'd, to tell them they had a fo[u][1]lnesse about them (vizt) (originall sinn) that could not be washed away but by Baptisme.

2. The Baptiseing of Childrn wth us doth onely prepair a Child agt he comes to be a man to understand what Christianyty means. In the Church of Rome it has this effect; it ffrees Childrn from Hell they say; they goe into Limbus Infantum. It succeeds circumcision, and wee are sure the Child understood nothing of that att eight days old; why then may not wee as reasonablely Baptize a Child att that age. In England of late years I ever Thought ye parson[2] Baptized his owne ffingers rather than the Child.

3. In the primitive tymes They had Godfathers; to see the Child brought upp in the Christian Religion; because many tymes when the ffather was A Christian; the Mother was not; and Sometime when the Mother was A Christian the ffather was not and Therefore they made choyce of two or more that were Christians to see the Child[3] brought up in that fayth. [fo. 7b]

Bastard

Ti's sayd 23d Deut. 2. A Bastard shall not enter into the congregacōn of The Lord even to The Tenth Generacōn Non ingredietur in Ecclesiam Domini—he shall not enter in to the Church; The meaning of the phraze is; he shall not marry a Jewish woman But upon this ground grossly mistaken a Bastard [fo. 8]

[1] MS. has *o* by an obvious slip. [2] Priest R. [3] Children V.

att this day in the Church of Rome without a dispensation can not take Orders; The thing haply well enough; where it is soe settled; but [that][1] it's upon a mistake (the place haveing noe Refferrence to y^e^ Church) appears plainly by what follows—att the 3. 5.[2] An Ammonite or Moabite shall not enter into the congregacōn of The Lord even to The Tenth Generacōn. Now you know w^th^ the Jewes an Ammonite or A moabite could never be a Preist because their Preists were borne and not made.

Bible Scripture

Ti's a great question how wee know Scripture to be Scripture wheth^r^ by the Church or by mans private spirit. Lett me ask
[fo. 8b] you how I know any thing; how I know This Carpett to be greene; first because some body told me it was greene;[3] that you call The Church in your way—and then after I have been told it is green; when I see that Colour again I know it to be green; myne owne eyes tell me tis green; that yo^u^ call The private Spirit.

2. The English Translacōn of The bible is the best Translacōn in the world and rend^r^s The Sence of the Originall best, takeing in for the English Translacōn; The Bishops Bible as well as King James. The Translation[4] in King James time tooke an excellent way; That parte of the Bible was given to him who was most excellent in such a Tounge (as y^e^ Apocripha to Andrew
[fo. 9] Downes) and then they meet[5] together; and one read The translacōn The rest holding in their hands some Bible either of The learned Tongues or ffrench, Spanish, Italian &c.—if they found any fault They speake[6] if not he read on.

[1] So Y. [2] *Sic*, should be v. for 'verse,' as in edd.
[3] The stop is misplaced after 'call' in our MS.
[4] So S.: translators V. and (on MS. authority) R.
[5] met V. [6] spoke V.

3. There is noe booke soe translated as the Bible.[1] For y^e^ purpose if I translate a ffrench Booke into English I turne it into English phrayse and not into ffrench English [Il fait froid] I say it is cold; not it makes cold but the Bible is Translated into English words; rather than into English phrase: the Hebraismes are kept and the Phrase of that Language is kept. as for example [he uncovered her shame] which is well enough Soe long as Schollers have to doe w^th^ it but when it comes a mong the Comōn-people Lord what geare[2] doe They make of it.

4. Scrutamini Scripturas, These two words have undone the [fo. 9b] world because Christ spake it to his disciples, therefore wee must have all men women and Child^r^n read and interprett The Scripture.

5. Henry ye 8^th^ made A Law that all men might read the Scripture except Servants; but noe women except Ladys and Gentlewomen who had Leasure and might aske somebody the meaning; The Law was repealed in Edward [the][3] 6^th^ days.

6. Laymen have best interpreted the hard places of the Bible Such as Johannes Picus; Scaliger Grotius Salmatius Heinsius &c.

7. If you ask w^ch^ of Erasmus Beza or Grotius; did best upon y^e^ New Testam^t^; tis an idle question, for they did all well in their [fo. 10] way. Erasmus broke down The first bricke. Beza added many things and Grotius added much to him; in whome wee have either some thing new or else some Thing hightned that was sayd before And soe it is necessary to have them all three.

8. The Text serves onely to guesse by. Wee must satisfye our selves fully out of the Authors that lived about those times.

9. In interpreting the Scripture many doe as if a man should see one have Tenn pounds; which he reckoned by .j. 2. 3. 4. 5.

[1] R.'s punctuation: he points out that 'for the purpose' = 'for instance.'
[2] jeer W., a very idle conjecture if not a misprint. [3] So V.

6. 7. 8. 9. 10. meaning .4. was but .4. unitts ; and .5. 5. unitts &c. and That he had in all but Tenn pounds the other that sees him
[fo. 10b] takes not the figures together as he doth but picks there and there ; and thereupon reports that he has five pounds in one bag and six in another bag and 9 in another bag &c. when as in truth he hath but tenn pounds in all Soe well[1] pick out [a][2] Text ; here and there to make it serve our Torne ; whereas if wee tooke it all together and considered what went before and what followed after, wee should find it meant noe such matter.

10. Make noe more Allegoryes in Scripture ; then needs must ; the ffathers were too frequent in them ; they indeed before They fully understood the literall sense ; look'd out for an Allegory the folly whereof you may conceive Thus ; Here at y^e
[fo. 11] first sight appeares to me in my window a glasse and a Booke ; I take it for granted tis a glasse and a booke, thereupon I goe about to tell you what they Signifie ; Afterwards upon nearer view they p[ro]ve noe Such things ; one is [a][3] Box made like a booke the other is a picture made like a Glasse ; where's now my Allegory.

11. When men meddle w^th y^e Litorall Text ; y^e question is where they should stopp. in this case a man must venture his discretion ; and doe his best to satisfye himselfe and others in those places where he doubts ; for although wee call the Scripture The word of God (as it is) yet it was writ by a man a mercenary man ; whose coppye either might be false or he might make it
[fo. 11b] false ; ffor example here were in England A Thousand Bibles printed w^th the Text thus (Thou shalt committ adultry) The word (not)[4] left out might not this Text be mended.

12. The Scripture may have more Sences besides the Literall ; because God understands all things att once. But a mans wryting

[1] i.e. we'll ; we V. [2] So V. [3] So V.
[4] Our MS. here inserts 'I' which makes no sense; perhaps the scribe meant to write 'is.'

has but one true sense ; w^ch^ is that w^ch^ the Author meant when he write it.

13. When you meet w^th^ Severall readings of the Text ; take heed you admitt nothing ag[ains]t the Tenents of yo^r^ Church ; but doe as if you were goeing over a Bridge ; be sure you hold fast by the rayle and Then you may dance here and there, as you please, be sure you keep to what is setled and Then you may [fo. 12] flourish upon yo^r^ various Lections.

14. The Apocripha is bound w^th^ the bibles of all Churches that have been hitherto ; why should wee leave it out. The Church of Rome ha's her Apocripha vizt Susanna and Bell and the Dragon which she does not esteem equally with the rest of those bookes that wee call Apocripha.

Bishops before y^e^ Parliam^t^.

1. A Bishop as a Bishop had never any Ecclesiasticall Jurisdicōn. for as soon as he was electus confirmatus ; That is after the three proclamations in Bow Church ; he might exercise Jurisdicōn before he was consecrated ; not[1] till then he was noe Bishop neither could he give orders : besides Suffragans were Bishops and they never claimed any Jurisdicōn.

2. Antiently y^e^ Noblemen lay w^th^in The Citty for Safety [fo. 12*b*] and Securyty The Bishops houses were by the water syde ; because they were held sacred persons w^ch^ noe body would hurt.

3. There was Some Sence for Commenda[m][2]s att first when there was a Liveing voyd and never A Clerke To serve it ; The Bishop was to keep it till he found A fitt man.

But it is now A trick for the Bishop to keep it to himselfe.

[1] I believe this is what Selden said and Milward wrote, though it is easy to read ' but ' (W., R. from MS. corr.) or ' yet ' (S. conj.).

[2] The scribe wrote *c* here by a slip.

4. For a Bishop to preach; ti's to doe other ffolkes office; as if The Steward of the house should execute y^e^ porters [or][1] the Cookes-place, ti's his businesse to see that they and all others about the house performe their dutys.

[fo. 13] 5. That w^ch^ is thought to have done y^e^ Bishops hurt[2] is; their goeing about to bring men to A blind obedience imposeing things upon Them (though p[er]haps Small and well enough) without prepaireing Them and first insinuateing into their reason and ffanceyes. Every man loves to know his commander: I were these gloves; but perhaps if an Alderman should command me; I should think much to doe it; what has he to doe w^th^ me; or if he has, peradventure I doe not know it; This Jumping upon things att first dash will distroy all; To keep up freindship there must be little Addresses & applicacōns Whereas bluntnesse spills[3] it quickly. To keep up The Hierarchy there must be Gentle applicacōns made to men They must be brought on by
[fo. 13*b*] Little and Little soe in the primitive times The power was gained; and soe it must be continued Scaliger says of Erasmus Si minor esse voluit[4] Major fuisset Soe may wee say of the Bishops Si Minores esse voluerint majores fuissent.

6. The Bishops were too hasty else with A discreet slownesse they might have had [what they][5] aimed att. The old Story of y^e^ fellow; y^t^ told y^e^ Gentleman y^t^ he might gett to such A place if he did not ryde too fast, would have fitted their Turne.

7. ffor a Bishop to cyte an old Canon to strengthen his new Article, is, as if A Lawyer should plead an old statute y^t^ has been Repeald God knows how Long.

[1] MS. om. by obvious slip. [2] Interlined over 'heart' struck out.
[3] V. spoils.
[4] Apparently a mistake in the archetype for 'voluerit,' which S. and R. restore in the text.
[5] The scribe first wrote 'have aimed,' then inserted 'had' and (nodding or distracted) forgot to complete the addition.

Bishops in the Parliament [fo. 14]

1. Bishops have The same right to sitt in Parliam^{t}; as y^{e} best of the Earles and Barons; That is those, which were made by writt; if you Ask one of y^{m} (Arundell Oxford Northumberland) why they sett in y^{e} house; they can onely say their ffathers satt there; before him[1] and Their Grandffather before him &c. And soe sayes the Bishopp Hee that was a Bishopp of this place before me satt in this house, & hee that was a Bishopp before him &c.[2] Indeed yo^{r} Latter Earles and Barons have it expressed in Their patents That They shall be called to The parliam^{t}; Ob[jection] but one[3] sett Their by blood The Bishops not. Answ^{r} Tis true They sett not both There[4] The same way; yet y^{t} takes not Away y^{e} Bishops right If I am a Parson of a Parish I hav^{e} [fo. 14b] as much right to my glebe and my Tythes, as you have to yo^{r} Land that yo^{r} Ancestors have had in that Parish 800 years.

2. The Bishops were not Barons becaus^{e} they had Baronyes annexed to their Bishopricks; (for few of them had soe unlesse the old ones (Canterbury Winchester Durham) the new erected wee are sure had none (as Glocester Peterborough) besides few of the Temporall Lords had any Baroneys) but They are Barons because They are call^{d} by wrytt to the Parliament; And Bishops were in the Parliam^{t} ever since there is any mencōn or Signe of A parliam^{t} in England.

3. A Bishop may be Judged by his Peers Though in time of [fo. 15] Popery it never happened; because They pretended They were not obnoxious to a secular Court. But their way was to cry Ego sum ffrater Domini papae· I am A Brother to my Lord The pope; and Therefore take not my Selfe to be Judged by you.

[1] V. them: as to MSS. see Reynolds's note.
[2] This sentence interlined and continued in the margin.
[3] the Lords V. [4] there both V.

In these cases they panneld[1] A Middlesex Jury and dispatched The businesse.

4. Whether may Bishops be pr[e]sent in Cases of blood? Answ[r] That they had a right to give votes, appears by This; always when they did goe out, they left a Proxie, and in time of The Abbotts Sometimes one man had 10. 20. or 30. voices. In Rich: 2. there was a protestation Ag[t] The Canons by w[ch] they were forbidden to be pr[e]sent in case of blood. The Statute
[fo. 15b] 25[th] Henry 8[th] may goe a great way in this businesse; the Clergie were forbidden to use [or][2] cite any Canon &c but in The latter end of the Statute there was A clause That Such Canons as were in usage in This Kingdome should be inforce till The 32[d].[3] Commissioners appointed should make others; provided They were not contrary to The Kings Supremacy; now y[e] question will[4] be; whether These Canons for blood were in use in this Kingdome or noe; The contrary whereof may appear by many pr[e]cedents in Rich: .3. H: 7. and The beginning of Hen: 8[th]; [in][5] w[ch] time there were more attainted then since or scarce before. The Canons of irregularyte for blood were never rec[eive]d in England but upon pleasure. If A Lay Lord was attainted; The Bipp̄s assented to his condemning; and were
[fo. 16] always p[re]sent att the passing of the Bill of attainder; but if A spirituall Lord, they went out as if they cared not whose head was cutt of, soe none of their owne. In those days the Bishops, being of great houses, were often intangled with the Lords in matters of Treason; but when doe you hear of a Bishop Traitor now.

5. You would not have Bishopps meddle w[th] Temporall affairs. Think who you are that say it. If a papist; they doe in your Church. If an English Protestant they doe amongst

[1] V. impannelled. [2] Supplied from V. [3] *Sic:* thirty-two V.
[4] Corr. over deleted word. [5] Supplied from V.

you. If a Presbeterian; where you have noe Bishops; you mean yo^{r} Presbiterian Lay:elders should meddle wth Temporall affairs as well as Spirituall besides all Jurisdicōn is Temporall; and in noe Church but they have some Jurisdicōn or other y^{e} question then will be reduced to magis & minus they medle [fo. 16b] more in one Church then in Another.

6. Ob[jection]. Bishops give not their votes by blood in Parliam^{t}. but by an office annexed to them w^{ch} being taken away They cease to vote Therefore there is not the same reason for Them as for Temporall Lords.

Ans: Wee doe not pretend They have That power The same way; but yet they have A right. He That has an office in Westminster Hall for his life the office is as much his and as rightfully, as his Land is his that has Land by inherytance.

7. Whether had the inferior Clergie ev^{er} anything to doe in the Parliam^{t}.

Ans: Noe, no otherwise then thus; there were certain of the Clergie that did use to Assemble near the Parliam^{t} with whome y^{e} Bishop[s][1] upon occasion might consult (but there were none of [fo. 17] The convocacōn as twas afterwards setled) vizt the Deane; the Arch Deacon; one for The Chapiter two for The Diocesse But it happened by continuance of time (to save charges and trouble) their voices and the consent of the whole Clergie were involv'd in the Bipps and att this day y^{e} Bipps Writts run to bring all these to y^{e} Parliament but The Bishops them-selves stand for all.

8. Bishops were formerly of[2] these Two condicōns; either men bred Canonists and Civilians sent up and downe Embassadors to Rome and other parts and soe by their merit came to that greatnesse; or else great Noblemens Sonns or Brothers or Nephews and soe borne to Govern y^{e} state. Now they are of A Low [fo. 17b] condicōn their educacōn nothing of y^{t} way: he getts a liveing

[1] Supplied from V. [2] So R. V. one of.

And then A greater liveing and then A greater then y^t^ and soe comes up[1] to Govern.

9. Bishops are now unfitt to Govern because of their very learning; they are bred up in anoth^er^ Law; they run to y^e^ Text for some thing done among y^e^ Jewes, y^t^ nothing concerned[2] England; Tis Just as if A man would have A kettle; and he would not goe to one braysiers to have it made as they make kettles; but he would have it made as Hiram made his brasse worke; who wrought in Solomon's Temple.

10. To take away Bipp̄s votes is but y^e^ beginning to take Them away; for Then they noe longer can be of any use to y^e^ [fo. 18] King or state Tis but like y^e^ Little Wimble to ye great[3] Auger. Ob: but they are but of their life and y^t^ makes y^m^ always goe as The King would have y^m^ Answer this is ag^t^ a double charyty for you must always suppose A bad King and A bad Bipp̄[4] Then againe whether will a man be sooner content him selfe should be made a slave or his sonn after him (when wee talke of our Childrn wee mean our selves) besides they y^t^ have posteryty are more obliged to y^e^ King then they y^t^ are onely for y^m^selves in all[5] reason in y^e^ world.

11. How shall y^e^ Clergie be in y^e^ parliamt if y^e^ Bishops be taken Away. Answer by y^e^ Layty Because y^e^ Bipps in whome y^e^ rest of y^e^ Clergie are included assent to y^e^ takeing away of their owne votes by being involv'd in y^e^ Major parts of y^e^ house: this follows naturally.

12. The Bishops being put out of y^e^ house whome will the^y^ lay y^e^ ffault upon now: when y^e^ Dog is beat out of y^e^ Roome where will they lay the stinke?

[1] V. om. [2] V. concerns. [3] V. to let in the greater auger.
[4] V. bad bishops. [5] V. the reason.

BISHOPS OUT OF Y^e PARLIAM^t. [fo. 18b]

1. In y^e beginning Bipps and presbyters were alike like yo^r Gentlemen in y^e Country; whereof one is made deputy Leiuetenant another Justice of peace; soe one is made A Bishop y^e oth^er A Dean And y^t kind of Governm^t by Arch Bipps and Bipps noe doubt came in in imitation of y^e Temporall Governm^t, noe Jure Divino. In time of y^e Ro: Empire where they had A Legatus there they placed an Arch Bipp; where they had A Rector, There A Bipp; y^t every one might be instructed in Christianity; w^ch now They had received into y^e Empire.

2. They y^t speake ingeniously[1] of Bipps and presbiters say y^t A Bipp is A greater Presbyter; and during y^e tim^e of his being Bipp above A presbiter: As y^e presedent of y^e Colledge of Physicon is above y^e rest; yet himselfe noe more then A Doctor of Physicke.

3. The word[2] (Bipp) and (presbyter) are promiscuously used; [fo. 19] that's confest by all and though y^e word (Bishop) be in Timothy and Titus; yet y^t will not prove y^e Bishops ought to have ajurisdicon over y^e Presbiters; though Timothy or Titus had; by y^e order that was given them (some body must take care of y^e rest) and y^t Jurisdicon was but to excommunicate; and that was but to tell them they should come noe more into their company; or grant they did make Canons one for another; before they came to be in the State; dos it follow they must doe soe when y^e state has received them into it. What if Timothy had powe^r in Ephesus; and Titus in Creet over y^e Presbiters dos it follow therefore our Bishops must have y^e same in England. must wee be governed by Ephesus or Creet.

4. However some of y^e Bipps p[re]tend to be Jure divino yet y^e

[1] *Sic* Brit. Mus. *ex rel.* R., but he reads 'ingenuously' in the text with V. The two words were often confused in the 17th cent., see O.E.D.

[2] *Sic* R. V. words.

practice of y^e^ Kingdome has been ever otherwise; for whatsoever Bipps doe; otherwise than what y^e^ Law p[er]mitts; Westminster-hall can controwle: as send to them [1] to absolve &c.

5. He y^t^ goes about to p[ro]ve Bipps to be Jure Divino; dos as a man y^t^ haveing A sword should strike it against an Anvile;
[fo. 19b] if he Strike it [a][2]while there he may peradventure loosen it. Though it be never soe well rivited: twill serve to cutt flesh or to strike ag[ains]t another sword; but not against an Anvile.

6. If you should say you held you^r^ Land by Moses or Gods Law; and would trye it by that you may p[er]haps loose it; but by y^e^ Law of y^e^ Kingdome you are sure to carry it: soe may y^e^ Bipps by this plea of Jure Divino loose all. The Pope had as good A Tytle by the Law of England as could be had; had he not left that; and claimed by power from God.

7. There is noe Governm^t^ enjoyned by example but by precept. It do's not follow; we must have Bipps still because they have continued soe long. They are both equally mad who say Bipps are soe Jure Divino, y^t^ they must be continued and they who say they are soe Antichristian y^t^ they must be put away. All is as the State likes.

8. To have noe Ministers but Presbyters, tis as if in the
[fo. 20] Temporall state they should have noe Officers but Constables and Justices of Peace (w^ch^ are but greater constables). Bipps doe best stand with Monarchy; that[3] as amongst y^e^ Layty you have Dukes; L^d^ Leiuetanants Judges &c. to send downe y^e^ Kings pleasure to his subjects; soe[4] you have Bipps to governe y^e^ inferior Clergie. These upon occasion may addresse themselves to y^e^ King otherwise every parson of y^e^ Parish must come and runn up to y^e^ Court.

[1] V. or send them: 'as' may be defensible as = 'for instance': the sense is obscure in any case.
[2] Supplied from V. [3] *Sic* R. and S. Ed.pr. thus. [4] *corr.* for 'as' deleted.

9. The Protestants have noe Bipps in ffrance because they live in [a][1] Catholick Country ; and they will not have Catholick Bipps therefore they must govern themselves ; as well as they may.

10. What is y^t^ to y^e^ purpose to what end Bipps Lands were given them att first ; wee must looke to the Law & custome of y^e^ place what is y^t^ to any temeporall Lords estate how Lands were first divided or how in William the Conquerors days. And if men a^tt^ first are Jugled out of their estates yet they are rightly their Successor's. If my ffather cheat a man of his Lands[2] and he consent to it the inherytance is rightly mine.

11. If there is noe Bipps there must be some what[3] else w^ch^ has the power of Bipps ; though it be in many and then had you not as good keep them? If you will have noe halfe Crowns; but onely single pence ; yet 30 single pence are a halfe Crown ; and had you not as good have both? but y^e^ Bipps have done ill ; [fo. 20b] Twas the men not y^e^ function ; as if you should say you would have noe more halfe Crowns because they were stolne ; when the Truth is they were not stole because they were halfe Crowns ; but because they were money & light in a Theifes hand.

12. They y^t^ would pull downe y^e^ Bipps ; and erect a new way of Governm^t^ doe ; as he y^t^ puls downe an old house ; and builds another of Anoth^r^ ffashion: there's a great deale a[4] doe and A great deale of trouble, y^e^ old rubish must be carryed away new materialls must be gott ; workemen must be p[ro]vided and perhaps y^e^ old one would have served as well.

13. If y^e^ prelaticall[5] and presbyterian party should dispute

[1] Supplied from V.

[2] The words ' of his lands,' useful if not necessary for the sense, appear to be peculiar to this MS.

[3] V. something.

[4] *corr.* for ' to ' deleted. *Sic* R. V. of.

[5] So R. V. Parliament, which makes no sense.

who should be Judge? indeed in y^e^ beginning of Queen Eliz: there was such a difference betwixt y^e^ Protestants and Papists and S^r^ Nicholas Bacon; Lord Chancellor (*a*) was appointed to be Judge; but y^e^ conclution was y^e^ stronger partie carryed it for soe Religion was brought into Kingdomes; soe it has been continued and soe it may be cast out when y^e^ state pleases.

14. It will be a great discouragem^t^ to scholler^s^ y^t^ Bipps should be put downe, for now the ffather can say to the sonn; and y^e^ Tutor to his pupill study hard and ye shall have vocem &
[fo. 21] Sedem in Parliam^ent^. Then it must be studyee hard and ye shall have A 500^li^ a year, if you please yo^r^ Parish. Objec̄. But they y^t^ enter into y^e^ Ministery for preferment, are like Judas; that looke[d][1] after y^e^ Bagg: good men need not such motives.[2] Answ^r^. It may be soe if they should[3] turne schollers att Judas's age; but what argument will you[4] use to perswade them to follow their Bookes when they are young.

Bookes Authors

1. The giveing a booke seller his price for his bookes, has this advantage, he y^t^ will doe it shall be sure to have y^e^ refusall of what soever comes to his hands. and soe by y^t^ means gett many things w^ch^ otherwise he never should have seen. So tis in giveing a Baud her price.

2. In buying bookes or other comodytys tis not always y^e^ best rule to bid but halfe soe much as y^e^ seller askes witnesse y^e^

(*a*) This obvious slip for Lord Keeper seems more likely to be Milward's than Selden's.

[1] Supplied from V. Two lines above V. reads 100, probably right.
[2] V. om. this clause. [3] V. om.
[4] *Sic* R. V. they. The preceding word 'will' is written over a deleted one.

Country fellow y^{t} went to buy two shoue[1] groat shillings (*a*); they asked him three shillings, and he offered them eighteene[2] pence.

3. They counte^{d} y^{e} price of y^{e} Bookes (Acts. 19. 19.) and found it fifty Thousand peices of silver: that is Soe many Sestertij: or Soe many three halfepence of our money about three hund^{re}d pounds sterling.

4. Popish Bookes teach and informe what wee know; we know much [out[3]] of them; y^{e} ffathers; Church story, Schoolmen; all may passe for popish Bookes and If you take away them: what learning will you leave; Besides Who must be [fo. 21*b*] Judge; The Customer or y^{e} Wayter? if he disallows a booke it must not be brought into y^{e} kingdome; then Lord have mercy upon all scholler^{s}; Those puritan Preachers; if they have any thing Good; they have it out of popish Bookes. though they will not acknowledge it; for fear of displeaseing y^{e} people: he is A poor Divine y^{t} cannot sever y^{e} good from y^{e} bad.

5. Tis good to have Translac̄ons because they serve as a comment; soe farr as y^{e} Judgem^{t} of one man goes.

6. In answering a Booke; tis best to be short oth^{er}wise he

(*a*) The game of shove-groat played on a long table with a silver coin (also shovel-board or shuffle-board, whence the modern deck game well known to ocean travellers) was quite familiar, and the shove-groat shilling occurs in Shakespeare and Ben Jonson, see O.E.D. *s. vv.* The blundering of the early edd. in this place is therefore rather unaccountable. See also R.'s note. A shilling became a shove-groat shilling by being worn quite smooth. I understand that the original game is not extinct.

[1] So R. from Harl. MSS.; Edinb. MS. ap. Irving 'shore,' from which S. restored in his second ed. the true reading already conjectured in his first. Irving, having apparently never heard of the English game, failed to use the clue. Ed. pr. leaves a blank space, not noticed in Arber's reprint.

[2] *corr.* from 'eight' by interlineation.

[3] Supplied from V.

y^t I wryte against; will suspect; I intend to wearye him; not satisfie him. besides in being long. I shall give my adversary a huge advantage, some where or other he will picke a hole.

7. In quoting of Bookes; quote such Authors; as are usually read; others you may read for yo^r owne satisfac$\bar{c}$on but not name[1] y^m.

8. Quoting of Autho^rs is most for matt^r of ffact and then I cite[2] them; as I would produce a witnesse: some time for a free expression, and then I give y^e Author his due, and gaine my selfe prayse by reading him.

9. To quote a Moderne Dutchman where I may use a Classick Autho^r; is as if I were to Justifie my[3] reputa$\bar{c}$on; And I neglect
[fo. 22] p[er]sons of note and quality that know me; and bring y^e Testimoniall of y^e Scullion in y^e kitchien.

(Canon Law)

If I would study y^e Canon Law as t'is used in England; I must study y^e heads here in use; Then goe to y^e practisers in those Corts where y^t Law is practysed; and know their Customes. Soe f[o]r[4] all study in y^e world.

(Ceremony)

1. Ceremony keeps up all things: ti's like a penny glasse to a rich spirit or some excellent water; w^thout it y^e water were spilt; y^e spirit lost.

[1] Interlined.

[2] Our MS. appears to be alone in giving the true reading, already restored by S. from conjecture. V. write, a blunder which I suspect has often escaped notice (as flagrant misprints in a proof may) by its very obviousness; the reader thinking he sees the word as he knows it ought to be. R. takes no notice of it.

[3] Interlined.

[4] So V. Our MS. has 'far,' an obvious slip.

2. Of all people Ladys have noe cause to cry downe Ceremonies for they take themselves extreamly slighted, without it; and were they not used with ceremony wth Complements and addresses with legs(*a*) and kissing of hands; [they[1]] they were y^{e} pittifulest creatures in y^{e} world; but yet mythinks to kisse their hands after their lips; as some doe; is like little boyes; y^{t} aft^{r} they have eate y^{e} apple fall to y^{e} pairing out of Love they have to y^{e} apple.

Chancellor

1. The Bishop is not to sett wth y^{e} Chancello^{r} in his Court; as being a thing eith^{r} beneath him or besides him; nee more then y^{e} King is to sett in the Kings Bench; when he has made a Lord Cheife Justice.

2^{ly}. The Chancello^{r} governed in y^{e} Church; who was a layman; and therefore tis false w^{ch} they charge y^{e} Bipps with y^{t} they challenge sole Jurisdiction; ffor the Bipp can noe[2] more put out y^{e} Chancello^{r}; then y^{e} Chancelle^{r} y^{e} Bipp; They were many of y^{m} made Chancello^{rs} for their lives, and he is y^{e} fittest man[3] to Govern; because Divinity soe overwhelmes all other things. [fo. 22*b*]

Changeing Sides

1st Tis y^{e} Tryall of a man; to see if he will change his side and if he be soe weeke; as to change once; he will change again. Your Country fellows have a way to try if a man be weake in the hams by comeing behind him and giveing him a little blow unawares; if he will bend once he will bend again.

(*a*) i.e. with 'making a leg.'

[1] This word duplicated by mistake, and the first struck out.
[2] Repeated by mistake in MS. [3] 'for' struck out.

2^{ly} The Lords y^{t} fall from y^{e} King after they have Got estates by base flattery att Court and now pretend conscienc̄e ; doe as A vintner ; y^{t} when he first setts up ; you may bring your wench to his house ; and doe yor things there ; but when he grows rich ; he turns consientious ; and will sell noe wine upon y^{e} Sabbath day.

3^{ly} Colonell ——[1] serveing first y^{e} one side then y^{e} other did like a good Miller ; y^{t} knows how to Grind w^{ch} way soever y^{e} wind setts.

4^{ly} After Luther had made a Combustion in Germany about Religion he was sent to by y^{e} pope to be taken off and offered any preferment in y^{e} Church y^{t} he would make choice of. Luther answered if he had offered halfe as much att first he would have
[fo. 23] accepted it ; but now he had gone soe far he could not come back(*a*). In truth he had made himselfe a greater thing ; then they could make him ; The German Princes courted him he was become y^{e} Author of a sect ; ever after to be called Lutherans.

Soe have our preachers done that are against the Bipps ; they have made themselves greater wth the people, then they can be made the other way and therefore theres y^{e} lesse probability of ffetching them of[2] :

(Charity)[3]

Charity to straingers is enjoyned in the Text by strangers is there understood ; those y^{t} are not of yo^{r} owne kinn ; strangers

(*a*) This is only Selden's offhand recollection of a doubtful story ; see R.'s note.

[1] A name which looks like *Genge* (but no such name is known) struck out. V. *Goring*, which is clearly right.

[2] V. the less charity probably in bringing : which is nonsense. The true reading, as in our MS., was in substance conjectured by S. and adopted by R.

[3] Heading restored by S. (the word apparently dislocated in the common source of V.) whom R. strangely did not follow in this.

to yo^{r} blood ; not those you cannot tell whence they come. That is be charitable to yo^{r} neighbours whome you know to be honest poor people.

(CHRISTIANS)[1]

1st In y^{e} Church of Jerusalem y^{e} Christians were but[2] anoth^{er} sect of y^{e} Jews y^{t} did beleive y^{e} messias was come. To be cald was nothing else but to become a Christian, to have the name of a Christian[3]: It being their owne Language, for amongst y^{e} Jews when they made a Doctor of the Law twas sayd he was cald.

2^{ly} The Turks tell their people of a heaven where there is sensible pleasure ; but of a Hell where they shall suffer they doe not know what. The Christians quite invert this Order They tell us of a Hell where wee shall feel sensible pain ; but of a Heaven, where wee shall enjoy wee can not tell what. . . .

3^{ly} Why did y^{e} Heathen object to y^{e} Christian[s][4] that they worship^{d} an Asses head Answ^{r} ; you must know that to a Heathen a Jew and a Christian were all one, That is[5] they regarded him not ; soe he was not one of them. Now y^{t} of y^{e} Asses head might proceed from such a mistake as this. By y^{e} Jewes Law all y^{e} firstlings of Cattle were to be offered to God (except) a young asse which was to be redeemed. A heathen being p[re]sent and seing young Calves[6] and young Lambs killed att their sacrafices[7] onely young Asses redeemd might very well think ; they had y^{t} silly beast in some high estimac̄on and thence might imagine they worshiped it as a God(*a*). [fo. 23*b*]

(*a*) But the story seems to have been a mere fiction : see R.'s note.

[1] This and the next heading transposed in edd. before R. They also insert 'High' before 'Church.' [2] 'one' deleted.
[3] Remainder of sentence interlined. [4] Supplied from V. [5] V. om.
[6] Repeated by mistake, the first struck out. [7] *Sic.*

Christmas

1st Christmas succeeds ye Saturnalia ye same time ye same number of holy days: Then the master wayted upon ye servant: Just like ye Lord of Misrule.

2ly Our meats and our sports (much of ym) have much relac̄on to Church worke: The Coffin of our Christmas pyes in shape long is in imitac̄on of ye Cratch(*a*). Our chooseing King and Queen on Twelve night has refereñce to ye 3 Kings, soe likewise our eating
[fo. 24] of ffritters whiping of Topps roasting of Her[ring]s[1] Jack of Lents &c. they were all in imitation of Church worke emblemes of Marterdome. Our Tansies att Easter have refereñce to ye bitter herbs; though att ye same time twas always the ffashion for a man to have in his house a Gammon of Bacon; to shew himselfe to be noe Jew.

{Church}[2]

1. Heretofore ye Kingdome lett ye Church alone lett ym doe what they would; impose any thing upon ym; because they had some thing else to think of vizt warrs; but now in time of peace, wee begin to examine all things will have nothing but what wee like; grow dainty and wanton Just as in a ffamily ye heire uses to goe a hunting; he never c̄onsiders how his meat[3] is dresed takes a bitt and away: but when he stays wthin Then he Grows curious he do's not like this he does not like yt; he will have his meat dressed his owne way; or peradventure he will dresse it him selfe.

(*a*) crèche, cradle.

[1] *Corr.* from V. 'Herons' by an obvious slip in MS.
[2] A special flourish round this heading.
[3] An erroneous repetition of 'his' deleted.

2. It has ever been y^e^ gain[1] of y^e^ Church when y^e^ King will lett y^e^ Church have noe power to[2] cry downe y^e^ King and cry up y^e^ Church; but when y^e^ Church can make use of y^e^ kings pow^er^; then to bring all under y^e^ Kings Prerogative. The Catholicks in England goe one way and y^e^ Cort Clergie y^e^ other.[3]

3. A Glorious Church is like a magnificent ffeast There is all y^e^ varietie that may be; but every one chooses out a dish or two y^t^ he likes and letts y^e^ rest alone How glorious soever y^e^ Church is every one chooses out of it his owne Religion by which he Governs himselfe & letts y^e^ rest alone.

4. The Laws of y^e^ Church are most favourable to y^e^ Church because they were of y^e^ Churc̄h mens owne makeing as y^e^ Heralds are y^e^ best Gentlemen because they make their owne pedigree. [fo. 24b]

5. There is a question about y^t^ Article concerning y^e^ power of y^e^ Church, whether those words (of haveing power in controversies of fayth) were not stolne in; but tis most certain they were in y^e^ booke of Articles y^t^ was confirm^ed^; Though in some edic̄ons they have been left out; but y^e^ Article before tells you who y^e^ Church is, not y^e^ Clerg^ie^; but Cœtus fidelium.

Church of Rome

1. Before a Juglers Tricks are discovered wee admire him; and give him money; but afterwards wee care not for y^m^; Soe it was before y^e^ discovery of y^e^ Jugling of y^e^ Church of Rome.

2^ly^ Catholicks say wee out of our charyty believe they of y^e^ Church of Rome may be saved but they doe not beleive soe of us, therefore their Church is y^e^ better according to our owne selves: first some of y^m^ noe doubt beleive as well of us as wee doe of y^m^; but they must not say soe; besides is y^t^ an argument their Church is better then ours, because it has lesse charytye.

[1] S. conj. game, perhaps rightly, cp. R.'s note.
[2] A miswriting deleted.
[3] So R. V. another.

3lv One of ye Church of Rome will not come to our prayers; doth yt [argue][1] he doth not like them! I would fain see A Catholick leave his Dinner because a Noblemans Chaplaine says
[fo. 25] Grace. nor haply would he leave ye prayers of ye Church if goeing to Church were not made note of distinction betwixt a Protestant and papist.

Churches

The way comeing into our great Churches was antiently att ye west Door yt men might see ye Alter & all ye Church before ym: ye other Doors were but posterns.

Citty

1st What makes A Citty whether A Bishoprick or any thing[2] of yt nature. Resp: [3] it is according to ye first Charter which made ym A corporacon; if they be incorperated by ye name of (Civitas) then they are a City; if by ye name of (burgum) then they are A burrough.

2lv The Lord Major of London by their first Charter was to be p[re]sented to ye King: in his absence to ye Lord Cheife Justiciary of England; afterwards to ye Lord Chancellor. now to The Barons of ye Exchequer; but still there was [a][4] reservation; yt for their Honour, they should come once A year to ye King as they doe still.

Clergie

1. Though a Clergie man has noe faults of his owne yett ye faults of ye whole Tribe shall be layd upon him soe he shall be sure not to lacke.

[1] V. does, argue: MS. agree, an obvious error.
[2] So R. V. om. [3] V. Answer. [4] Supplied from V.

2ly The Clergie would have us beleive them ag[ains]t our owne reason: as the woman would have had her husband ag[ains]t his owne eyes; when he tooke her wth another man; which yet she stoutely denyed; what will you beleive your owne eyes, before your owne sweet wife. [fo. 25b]

3ly The condic̄on of the Clergie towards the Prince & the condic̄on of ye Phisicians[1] is all one: ye Phisicians tell ye Prince they have Agricke and Rubarcke[2] good for him and good for his subjects bodyes; upon this he gives them leave to use it; but if it prove nought then a way wth it they shall use it noe more. Soe ye Clergie tell the King they have Phisicke good for his soull and good for the soulles of his people, upon that he admitts them but when he finds by experience they both trouble him and his people then away wth them; he will have noe more to doe wth them; what is yt to them or to any body else if A King will not goe to Heaven. . . .

4ly A Clergie man goes not a dramme ffarthr then this yee[3] ought to obey yor prince in generall; if he do's he is lost; how to obey him you must be informed by those whose profession it is to tell you. The . parson[4] of the Tower (A good discreete man) told Dr Mosely (who was sent to me and ye rest of ye Gentlemen committed .3. Car. to perswade us to submitt to ye King) yt they[5] found no such words as (Parliament habeas Corpus returne, Tower &c.) neither in ye ffathers nor in the Schoolmen nor in ye Text; and therefore for his parte he beleived they[5] understood nothing of ye businesse. A Satyre upon all those Clergie men; wch meddle wth matters they doe not understand. [fo. 26]

5ly All confesse there never was a more learned Clergie . no

[1] V. physician. [2] *Sic.* V. rhubarb. [3] Written over 'hee' struck out. [4] Struck out and rewritten above the line in a smaller cursive hand: perhaps the intended correction was *a* for *e*.
[5] V. he. R. as our MS.

man taxes them with ignorance,[1] but to talke of that is like y^e^ fellow y^t^ was A great wencher, he wished God would forgive him his Lechery and lay usery to his charge. The Clergie have worse faults.

6. The Clergie and Treatie[2] togeth^r^ are never like to doe well (*a*); Tis as if a man was[3] to make an excellent ffeast; and would have his Apothicary & Phisician come into y^e^ Kitching: The Cookes if they were lett alone would make excellent meat but then comes the Apothycary and he putts Ruberb into the[4] sause and Agrick into the other sause & soe spoyles all. Chaine up the Clergie on both Sydes.

[fo. 26*b*]

High Commission

Men cry[5] out upon y^e^ high Commission as if onely Clergiemen had to doe in it; when I beleive here[6] are more Laymen in Commission there than Clergie men; If y^e^ Lay men will not come; whose ffault is that; soe of y^e^ star Chamber y^e^ people think y^e^ Bishops only [7] censerd Pryn; Burton and Bastwick; when there were but two here; and one speake not in his owne cause.

House of Commons

1. First [8] there be but two erroneius opinions in y^e^ house of Commons y^t^ y^e^ Lords sett onely for y^m^selves when the truth is they sett as well for the Comon wealth, the Knights & Burgeses sett

(*a*) For the sense of the more difficult but clearly genuine reading 'treaty' see R.'s note, pointing out that the reference must be to the failure of negotiations between King Charles I. and the Parliament because of ecclesiastical controversies.

[1] 'no man . . . ignorance' interlined.
[2] So R. from MSS. V. laity, which looks like a wilful alteration by the printer of *ed. pr.*
[3] V. were.
[4] So R. V. one.
[5] Written over a deleted word.
[6] V. there.
[7] Interlined.
[8] V. om.

for themselves[1] and others ; some for more some for fewer. And whats y^e^ reason ? becăuse y^e^ Roome will no^t^ hold all : y^e^ Lords being ffew ; they all come, & imagine y^e^ Roome able to hold all y^e^ Comons of England, then y^e^ K^ts^ and Burgesses would sett no^e^ otherwise then y^e^ Lords doe : y^e^ Second Error is y^t^ y^e^ house of Comoñs are to begin to give subsidyes yet if y^e^ Lords disent they can give noe money(*a*).

2^ly^ The house of Comons is called y^e^ Lower house in Twenty Acts of parliam^t^. but what are Twenty Acts of parliament ? (among^st^ ffrends)(*b*).

3. The forme of a charge runs thus. I accuse in y^e^ name of [fo. 27] all y^e^ Comons of England.

How can any man then be as[2] witnesse when every man is made an accuser ?

Competency [3]

That which is a competeñcy for one man is not enough for another ; noe more then y^t^ which will keep one man warme ; will keep another warme ; one man can goe in dublett and hose when another man can not be without A Cloake and yet have noe more Cloaths then is necessary for him : enough & a little more.[4]

(*a*) If Selden really said this he must have been nodding. See R.'s note.

(*b*) The reading of ' amongst friends ' as a parenthesis, meaning ' between ourselves—don't tell the Commons I said so,' is due to the Rev. Dr. Blakiston, President of Trinity College, Oxford, who has kindly communicated it to me. This greatly improves the sense without altering a letter.

[1] when . . . themselves : the scribe, having omitted these words (a case of homoioteleuton), squeezed them in between the lines and in the margin.

[2] Follows what looks like the same word struck out : I suspect the scribe intended to write ' be a witness.' V. as a.

[3] This head is placed between ' Confession ' and ' Great Conjunction ' in the early edd.

[4] These last words, apparently peculiar to our MS., seem to be a gloss rather than part of the text.

Confession

1st In ye time of parliamt it used to be one of ye first things ye house did, to petition ye King yt his Confessor might be removed; as fearing either his power with ye King; or else least hee[1] should reveale to ye pope what ye house was[2] doeing; as noe doubt he did when ye Catholick Cause was concērned.

2ly The difference betwixt us and ye papists is wee both allow contrition; but ye papists make confession a part of contrition; They say a man is not sufficiently Contrite unlesse he confesses his sins to a preist.

3ly Why should I think a preist will not reveale confession? I am sure he will doe any other thing that's forbidden him; haply not soe often as I.

ye uttermost punishment is Deprivacon and how can it be proved yt ever any man revealed Confession when there is noe
[fo. 27b] witnesse and noe man can be witnesse in his owne cause A meer gullery. There was a time when it was publick in ye Church; and yt is much Ag[ains]t their Auricular coñfession.

Great Conjunction

The great conjunction of Saturne and Jupiter happens but once in 800 years(*a*) and therefore Astrologers can make noe experiment of it nor foretell what it means. Not but yt ye Starrs may mean some thing—but wee can not tell what because wee can not come att ym; suppose A planett were A simple or an Herb;

(*a*) No such astronomical period seems to be known: perhaps Milward misread the number in his rough notes.

[1] Interlined above 'yt' struck out. [2] V. ins. in.

how could y^e^ phisician tell y^e^ vertue of y^t^ simple; unlesse he could come att it, to apply it?

Conscience

1. He y^t^ has A scrupelous conscience is like A horse w^ch^ is not well waid[1]: he starts at every bird y^t^ flyes out of y^e^ hedge.

2^ly^ A knowing man will doe y^t^ w^ch^ a tender conscienced man dares not; by reason of his ignorance, the other knows there is noe hurt; As a Child is affrayd to goe in y^e^ darke; when a man is not because he knows there is noe danger.

3^ly^ If once wee come to leave y^t^ outloose as to pretend conscience against Law; who knows what inconvenyency may follow: for thus, suppose an Anabaptist comes and takes my horse; I sue him he tells me; he did according to his conscience; his conscience tells him all things are common amg^ts^ the Saints, what is myne is his what is his is mine therefore you doe[2] ill to [fo. 28] make such A Law—If a man take anothers horse he shall be hangd. What can I say to this man; he do's according to his Conscienc̄e; why is he not as honest a man as he y^t^ pretends; y^t^ A Ceremonie established by Law is against his conscience? Generally to pretend conscience against Law is dangerous, in some cases haply wee may.

4^ly^ Some make it a Case of Conscience whether A man may have A pigeon-house because his pigeons eate other folks Corne; but there is no such thing as conscience in y^e^ businesse; y^e^ matter is whether he be a man of such qualitie y^t^ y^e^ state allows him to have a Dovehouse if soe there's an end of y^e^ businesse; his pigeons have right to eate where they list[3] themselves.

[1] *Ed. pr.* weigh'd, W. way'd: the meaning is broken or trained. 'To way a horse, to teach him to travel in the way': Bailey's Dict.
[2] A word struck out. [3] So R. V. please.

Consecrated Places

1. The Jews had a peculier way of consecrating things to God; which wee have not.

2. Under y^e^ Law, God, who was y^e^ Master of all, made choice of A Temple to be worshipt in where he was more especially p[re]sent; Just as y^e^ Master of A house; who ownes all the house[1] makes choyce of one Chamber to lye in which is cald y^e^ Masters Chamber: but under y^e^ Ghospell there is noe such thing. Temples and Churches are sett apart for the conveniency of men to worship in, they can not meet upon the point of an needle, but God him selfe makes noe choice.

3. All things are Gods already; wee can give him noe right (by consecrateing any) that he had not before; onely wee sett it aparte to his Service · Just as a Gardner brings his Lord and
[fo. 28b] Master A Baskett of Apricokes; and presents y^m^ his Lord thanks him for y^m^; perhaps gives him something for his paines and yett y^e^ Apricokes were as much his Lords before as now.

4^ly^ What is consecrated is given to some p[ar]ticular man; to doe God service; not given to God; but given to man to serve God; And there's not any thing Lands or goods; but some men or other have it in their power to dispose of as they please. The saying things consecrated can not be taken away makes men affraid of consecration.

5^ly^ Yet consecracon has this power when a man had[2] consecrated a thing to God he cannot of himselfe take it away.

Contracts

If our ffathers have lost their libertye—whether may wee not labour to regaine it. Ans[wer]: wee must looke to y^e^ contract;

[1] who . . . house interlined. [2] V. has.

if that be rightly made wee must stand to it. If once wee grant [we may recede][1] from contracts upon any inconvenyence[2] may afterwards happen wee shall have noe bargain keept. If I sell you A horse and afterwards doe not like my bargain I will have my horse again.

1. Keep yo^{r} contract; so farr a Divine goes but how to make our contracts is left to our selves and as wee agree about y^{e} conveying of this house or that Land soe it must be If you offer [fo. 29] me 100*l.* for my glove, I tell you what my glove is; a plaine glove, pretend no vertue in it, y^{e} glove is my owne; I professe not to sell gloves and wee Agree for a hundred pounds; I doe not know why I may not with a safe conscience take it. The want of that Comon obvious distinction of Jus præceptivum and Jus permissivum does much trouble men.

2. My Lady of Kent[3] articled wth S^{r} Edward Herbert, y^{t} he should come to her when she sent for him and stay wth her as long as she would have him; to which he sett his hand. Then he Articuled wth her, y^{t} he should goe away when he pleased and stay away as long as he pleased, to which she sett her hand (*a*). This is y^{e} Epitome of all y^{e} contracts in y^{e} world betwixt man & man, betwixt Prince and subject, they keep them as long as they like them and noe longer.

Convocation

1. When y^{e} King sends his writts for a Parliament, he sends for two Knights for a shire and two Burgesses for A Corporac̃on;

(*a*) Apparently a jocular perversion of an annuity *pro consilio impendendo*, not an uncommon thing in the 17th century: see Singer's or Reynolds's note.

[1] Supplied from V. Our MS. leaves a blank.
[2] R. as our text. V. ins. that.
[3] V. Lady Kent.

but when he sends for two Arch Bishopps for A Convocation he commands y^m^ to assemble y^e^ whole Clergie But they out of custome among themselves send to y^e^ Bipps of their provinces to will them to bring two Clerkes for a Diocesse ; y^e^ Deane ; one for y^e^ Chapter & y^e^ Arch Deacons ; but to y^e^ King every Clergie-man is there present.

[2]. Wee have nothing soe neerly expresses y^e^ Power of the Convocac̄on in respect of y^e^ Parliam^t^ as A Court Leet; where they
[fo. 29b] have power to make By-Laws as they call them ; as y^t^ a man shall put but soe many sheep or Cowes in y^e^ Comon ; but they can make nothing that's contrary to y^e^ Laws of y^e^ Kingdome.

Councill

They talke (but blasphemiously enough) y^t^ y^e^ holy Ghost is president of their Generall Councills ; when y^e^ truth is y^e^ odde man is still y^e^ holy Ghost.

Creede

Athenasius's Creede is y^e^ shortest take away y^e^ preface and y^e^ (ffor's)(*a*) and y^e^ conclusion which are not parte of y^e^ Creed. In y^e^ Niceene Creed tis εἰς ἐκκλησίαν[1] I beleive in y^e^ Church ; but now[2] our Comon prayer booke[3] has it I beleive one Catholick

(*a*) I do not clearly understand what the scribe intended to convey: clauses beginning with 'for' in the English ? but they are not enough to add materially to the length of the whole. The common reading 'force' may stand for 'farce' in the sense of stuffing, metaphorically surplusage : the difference of spelling does not matter, *cp.* our modern 'force-meat' : but perhaps the reading of our MS. is, even apart from its generally better credit, to be preferred on the principle of *difficilior lectio.*

[1] Breathings omitted in MS.
[2] Interlined. Edd. before R. ins. as.
[3] V. om.

and Apostolicke Church; They like not Creeds because they would have noe fformes[1]; no fformes of ffayth as they have none of prayer (*a*) though there be more reason for y^e^ one then y^e^ other.

Damnation

1. If y^e^ phisician sees you eate any thing y^t^ is not good for yo^r^ body, to keep you from it he c̄rys it is poyson. If y^e^ Divine sees you doe any thing y^t^ is hurtfull for yo^r^ Soule, to keepe you from it he says you are damn'd.

2. To preach long; low'd; and Damnation is [the][2] way to be cryd up. Wee love a man y^t^ damnes us and wee runn after him again to save us: If a man had a soore leg; and he should shew it to an honest judicius surgeuion and he should onely bid him Keep it warme and anoint it w^th^ such an oyle (an oyle well known y^t^ would doe y^e^ cure) haply he would not much regard him because he knew y^e^ medicine beforehand—an ordinary medicine; but if he should goe to A Surgeon y^t^ should tell him Yo^r^ Legg would Gangreen within 3 days and it must be cut of· and you will dye unlesse you doe some thing y^t^ I could tell you, what listning there would be to this man; O for y^e^ Lords sake S^r^[3] tell us[4] what this is, I will give you any content for yo^r^ pains. [fo. 30]

(*a*) It is impossible to prove that the repetition of the words 'no forms' in our MS. is not a clerical error, but it reads better and I think the error was the other way. The stop after the first 'forms' is the scribe's, and may go to show that he knew what he was doing; but his punctuation is not constant enough to build much upon.

[1] V. om. the repetition of these two words.
[2] Supplied from V.
[3] i.e. Sir. Interlined, not in V.
[4] V. me.

Selfe Deniall

[This rubric follows 'Devils' in edd. before Reynolds.]

1. Tis much y^e^ Doctrine of y^e^ times y^t^ men should not please them selves; but denye themselves every thing they take delight in, not looke upon beauty weare noe good Cloaths, eate noe good meate &c. w^ch^ seems y^e^ greatest accusation y^t^ can be upon y^e^ maker of all good things If they bee not to be used why did God make them! The truth is they that preach ag[ains]t them cannot make use of them themselves and then again they gett esteem by seeming to[1] contemne them; but yet marke it while you live if they doe not please themselves as much as they can; and wee live more by example then precept.

Divills

[fo. 30*b*] Why have wee none possest w^th^ Devills in England The old Answer is; y^e^ Protestants y^e^ Devill has already and y^e^ papists are soe holy; he dares not meddle w^th^ y^m^; why then beyond seas, where a Nun is possest when A Hugonett c̄omes into y^e^ Church doth y^e^ Devill hunt him out. The preist teaches him; you never Saw y^e^ Devill through up a Nuns Coates; marke y^t^; y^e^ preist will not suffer it; for then y^e^ people would spitt att him (*a*).

2^ly^ Casting out Devills is meere Jugling; they never cast out any but what they first cast in. They doe it where for re[v]erenc̄e[2] noe man shall dare to examine it; they doe it in A Corner in A morticehole not in y^e^ Markett plac̄e; they doe nothing

(*a*) See Reynolds's note on this obscure passage. Apparently Selden was alluding to some story then current but not now traceable.

[1] Interlined.

[2] Our scribe wrote 'reference' by an obvious slip.

but what may be done by Art. They make y^e^ Devill flye out att a window in y^e^ likenesse of A Batt, or A Ratt; why doe they not hold him[1]? why in y^e^ likenesse of A Batt or Ratt or some Creature y^t^ is,[2] why n^ot^ in some shape wee paint him in with Clawes and hornes? by this Trick they gain much, gain upon mens fancyes; and soe are Reverenced; and certainly if y^e^ preist can deliver me from him y^t^ is my greatest enemy I have all y^e^ reason in y^e^ world to reverence him. Ob. but if this be Jugling; why doe they punish Impostures. Answ^r^. for great reason because they doe not play their gaim[3] well; and for fear others should discover them and soe all of them thought[4] to be of y^e^ same Trade.

[S. 3 will be found at p. 145 below, being, with several other sections, added to our MS. as an appendix.]

Duell

A duell may be still[5] granted in some c̄ases by [the] Law of England and onely theirs[6]; that y^e^ Church allowed (*a*) it antiently appears by this, in their publick liturges there were prayers appointed for y^e^ duelists to say y^e^ Judge used to bid one of y^m^ [fo. 31] goe to suc̄h a Church and pray the[re] for y^e^ victory: and to y^e^ other goe to such a Prelate in such a Churc̄h and pray [the]re But whether is this Lawfull? if you grant any warr lawfull I make

(*a*) It would hardly be correct to say 'approved.' Neilson, *Trial by Combat*, 1890, is the best monograph; and *cp.* Reynolds's note.

[1] W. time, seemingly a misprint.
[2] Our MS. confirms the correct punctuation already restored by R.
[3] V. part.
[4] R. and so think all of them, V. and so all of them ought: which is nonsense.
[5] V. still be: 'the' a few words below supplied from V.
[6] *Sic*, a slip for 'there' (V.); the sense being 'in no other cases.'

noe doubt but to convince it. Warr is Lawfull because God is y^e^ onely Judge betwixt two that are[1] supreme Now if a difference happen between two subjects and it can not be decided by humane testimony, why may they not putt it to God to Judge between them by y^e^ permission of y^e^ princē; nay what if he[2] should bring it down for argument sake to y^e^ sword men? one gives me y^e^ lye tis a great disgracē to take it: y^e^ Law has made no provision to give remedy for y^e^ injury (if you can suppose any thing an injury for which y^e^ Law gives noe remedy) why am not I in this Case Supreame and may therefore right my selfe.

2. A Duke ought to fight w^th^ A Gentleman y^e^ reason is this, y^e^ Gentleman will say to y^e^ Duke tis true you hold A higher place in y^e^ state then I; There's A great distancē betwixt you and me; but yo^r^ dignity doth not priviledge you to doe me an Injury; as soon as ever you doe me an Injury you make yo^r^ selfe my equall; and as you are my equall I challenge you. And in sence y^e^ Duke is bound to Answer him. This will give you some light to und^er^stand y^e^ quarrell betwixt A prince and his subjects. Though there be A vast distancē betwixt him and y^m^; as[3] they are to obey him according to their contract, yet he has no^e^ power to doe them[4] Injury. Then (*a*) they think themselves soe[5] much Bound to vindicate their right as they are to obey their[6] Lawfull commands, nor is there any other measure of Justice left upon Earth but Armes.

(*a*) Then = in that case: these concluding sentences are so abrupt as to suggest some omission, but I find no variant.

[1] *Ed. pr.* is; correction to 'are' already made by Wilkins (? conj.), Singer (from Harl. MS.) and R.

[2] V. we: which seems right.

[3] V. and: which, though it does make sense, does not read so well. The punctuation is not quite clear.

[4] V. ins. an. [5] V. as. [6] V. his.

Epitaph

[fo. 31b]

An Epitaph must be made fitt for y^e^ Person for whome it is made; for a man to say all y^e^ excellent things; y^t^ can be sayd upon one and call y^t^ his Epitaph; tis as if a painter should make y^e^ Handsomest peice y^t^ he can possiblely[1] make; and say it was[2] my picture: it holds in a ffunerall sermon.

Equity

1. Equity in Law is y^e^ same y^t^ y^e^ spirit is in Religion, what ever[3] one pleases to make it. Some times they Goe according to conscience some time according to Law some time according to y^e^ Rule (*a*) of y^e^ Court.

2. Equity is A Roguish thing, for Law wee have a measure know what to trust too. Equity is according to y^e^ conscience of him y^t^ is Chancell^or^, and as y^t^ is larger or narrower soe is equity Tis all one as if they should make y^e^ Standard for y^e^ measure[4] wee call A foot, to be y^e^ Chancellors foot; what an uncertain measure would this be; One Chancello^r^ ha's a long foot another A short foot a third an indifferent foot; tis y^e^ same thing in y^e^ Chancello^r^s Conscienc̃e (*b*).

3. That saying; doe as you would be done to is ofteen misunderstood; for it is not thus meant; y^t^ I; A private man should doe to you A private man as I would have you doe to me; but doe as wee have Agreed to doe one to Another by publick Agree-

(*a*) We should now say 'Practice.'

(*b*) As to complaints against Chancery jurisdiction in the 17th century, see Reynolds's note.

[1] *Sic.* [2] So W. V. 'twas.

[3] V. every: which seems right.

[4] V. measure, we call a chancellor's foot. S. (apparently conj.) we call a foot, a chancellor's foot. The reading of our MS. seems clearly preferable.

ment. If y^e^ prysoner should ask the Judge whether he would be content to be hanged were he in his Case, he would answer
[fo. 32] noe ; then says y^e^ prysoner doe as you would be done to ; neither of y^m^ must doe as private men, but y^e^ Judge must doe by him as they have publickly Agreed : y^t^ is, both Judge and prysoner have consented to A Law y^t^ if either of y^m^ steall they shall be hanged (*a*).

Evill Speakeing

1. He y^t^ speakes ill of another commonly before he is aware makes himselfe such A one as he speaks ag[ains]t for if he had Civility or breeding he would forbear such kind of language.

2. A gallant man is above ill words : an example wee have in y^e^ old L^d^ Salisbury (who was A great wise man) Stone had cald Some Lord About Co[u]rt foole. The L[or]d complains and has Stone whipt ; Stone crys I might have cald my L^d^ of Salisbury foole ofteen enough before he would have had me whipt (*b*).

3. Speake not ill of A great enemy ; but rather give him good words y^t^ he may use you y^e^ better if you chance to fall into his hands. The Spaniard did this when he was a dyeing, his Confessor told him, to worke him to repentan̄ce, how y^e^ Devill tormented y^e^ wicked y^t^ went to Hell ; y^e^ Spaniard replying called y^e^ Devill my Lord : I hope my Lord y^e^ Devill is not soe cruell. His Confessor reprovd him : excuse me for calling [him][1] soe sayes y^e^ Don I know not into what hands I may fall and if I happen into his I hope he will use me y^e^ better for giveing him good words.

(*a*) Students of political theory will not fail to note the anticipation of Locke.

(*b*) As to the limits of Court fools' licence see Reynolds's note.

[1] Supplied from V.

Excommunicacon

That placē they bring for excommunicacon (put away from amongst yorselves yt wicked p[er]son .1. Cor. 5. 13) is corrupted in ye Greeck for it should be τὸ πονηρὸν[1] put a way yt evill from a mong you not τὸν πονηρὸν that evill p[er]son besides [fo. 32b] ὁ πονηρὸς is ye Devill in scripture and it may be soe taken there. And there is A new edicōn of Theodorett Come out yt has it right τὸ πονηρόν. Tis true ye Christians before ye Civill state became Christ[ian] did by covenant and Agreemt sett down how they would live; and he yt did not observe what they Agreed upon should come noe more amongst ym, yt is be excommunicated. Such men are spoaken of by ye Apostle (Ro: 1st. 13.[2]) whome he calls ἀσυνθέτους καὶ ἀσπόνδους The Vulger has it—Incompositos & sine fœdere, the last word is pritty well rendered,[3] but ye first not [at][4] all. Origen in his Booke ag[ains]t Celsus speakes of ye Christians συνθήκη: The Translator renders it conventus; as it signifyes A meeting; when tis plain it signifyes A Covenant, and ye English Bible turnd ye other word well, Covenant breakers: Pliny tells us ye Christians tooke an Oath among ymselves to live thus & thus.

[2]. The othr place (Dic Ecclesiae) tell ye Church is but A weake ground to rayse excōmunicacōn upon especially from ye Sacrament, ye Lesser excommunicacōn, since when yt was spoaken ye Sacrament was [not][5] instituted. The Jewes Ecclesia was their Sanydrim, their Court; soe yt ye meaning is If after once or twice admonicōn this Brother will not be reclaimed bring him thither.

3. The first excommunicacōn was 180 years after Christ and

[1] The scribe's cursive Greek is odd and crabbed: I think he meant to spell the words correctly. Omitted accents are supplied. Bad blunders of *ed. pr.* in both Greek and Latin words are tacitly corrected in W., S. and R.
[2] V. 31, rightly. [3] V. om. [4] Supplied from V.
[5] Supplied by S. conj. whom R. follows.

[fo. 33] y^t by Victor Bi[sho]pp of Rome (*a*). but y^t was noe more then this, y^t they should communicate & receive y^e sacrement among y^mselves not w^th those of y^e other opinion y^e Controversie as I take it being about y^e ffeast of Easter.

4. Men doe not care for excommunicac̄on because they are shutt out of y^e Church or delivered up to Satan; but because y^e Law of y^e Kingdome takes hold of them: after soe many days a man can not sue noe not for his Wife if you take her from him, and yet there may be as much reason to grant it for A small fault; if there be contumacy, as for A great one: in Westminister Hall you may Outlaw a man for ffourty shillings; w^ch is their Excommunicac̄on and you can doe noe more ffor 40000 *li.*

5. When Constantine became Christian he soe fell in Love with the Clergie y^t hee lett y^m be Judges of all things; but y^t continued not above three or four years; by reason they were to be Judges of matters they understood not; and then they were allowed to meddle with nothing but Religion: all Jurisdic̄on belonged to him, and he scantled[1] (*b*) y^m out as much as he pleased and soe things since have continued. They excommunicate for three or four things, matters concerning adultery, Tythes, Wills &c., which is y^e Civill punishment; y^e state allows for such faults. If a Bi[sho]pp excommunicate A man for what he ought not, y^e Judge has power to absolve and punish y^e Bi[sho]pp. If they had y^t Jurisdic̄on from God; why does not y^e Church exCommunicate for murther, for Theft? If y^e Civill power might take A way all but three things why may they not take away

(*a*) On this statement (possibly misreported), and the chapter generally, see Reynolds.

(*b*) With all respect to Reynolds's note here, I fail to find authority in the O.E.D. for any such distinction between 'scant' and 'scantle' as he asserts. The sense in modern English is 'cut down their allowance.'

[1] So R. V. scanted (*b*).

them too? If this excommunicacon were quite taken a way [fo. 33b]
the Presbiters would be quiett; tis y^t they have A mind to, tis y^t they would faine be att; Like y^e wench y^t was to be marryed; She askt her Mother when it was done if she should goe to bed p[re]sently: noe says her Mother you must dine first: and then to bed Mother? noe you must dance after dinner: And then to bed Mother? noe you must goe to supper: and then to bed Mother?[1]

Fasting Days

1. What y^e Church denies[2] us one day she gives us leave to take it out[3] another; first wee fast and then wee ffeast; first there is A Carnivall and then A Lent.

2. Whether doe humane Laws tie our consciences[4]? If they doe tis a way to ensnare; if wee Say they doe not; wee open a Door to disobedience *Resp*: in this case we must looke to y^e Justice of y^e Law and intention of y^e Law giver; If there be not Justice in y^e Law it is not to be obeyed, submitting to y^e punishment.[5] If y^e intention of y^e Lawgiver be absolute our obedience must be soe too If y^e intention of y^e Lawgiver enjoyne a penaltye as a compensation for the breach of y^e Law, I sin not, if I submitt to y^e penalty. If it enjoyne A penalty as a further enforsem^t of obedience to y^e Law, then ought I to observe it, w^ch may be known by y^e often repetition of y^e Law (*a*). This way of fasting is

(*a*) Later decisions of the Courts on statutory penalties worked out a distinction between *mala in se* and *mala prohibita* somewhat on Selden's lines, but not always happily. Somehow these sentences do not read smoothly, and I suspect confusion or dislocation in Milward's copy.

[1] V. add &c. [2] V. debars. [3] V. ins. in.
[4] V. the conscience.
[5] The words 'submitting . . . punishment' appear to occur only in our MS. As the MS. also supplies missing words in places where they are obviously wanted, I see no reason to suspect an interpolation here.

enjoyned to them who yet doe not observe it. The Law enjoines
[fo. 34] a penalty as an inforcem^t to obedience w^ch intenc̄on appears by y^e often calling upon us to keep y^t Law by y^e King, and the dispensation of y^e Church to such as are not able to keep it; as young Children old folkes diseased men &c.

Fathers and Sons

It has ever been y^e way for ffathers to bind their sonns; to strengthen this by y^e Law of y^e Land ever[y]^1one att Twelve years of Age is to take y^e oath of Allegianc̄e in y^e^2 Co[u]rt Leets; whereby he Swears obedienc̄e to y^e King.

Faith and Workes

Twas an unhappy division y^t has been made between fayth and workes, though in my intellect I may divide them. Just as in y^e Candle I know their is both heat and light; but yet putt out y^e Candle and they are both gone, one remains not without y^e other; soe tis betwixt fayth and workes, nay in a right Concepc̄on Fides is opus. If I beleive A thing, because I am comanded, y^t is opus.

Fines

The old Law was y^t when a man was find he was to be find Salvo continemento^3; soe as his Countenañce might be safe, takeing (Countenance) in y^e same sence as yo^r Countryman dos; when he says if you will come to my house I will shew you y^e best countenañce I can, y^t is not y^e best ffac̄e; but y^e best
[fo. 34*b*] entertainm[en]t The meaning of y^e Law was that soe much should be taken from a man; such A Gobbett slic'd off [that]^4

^1 Supplied from V. ^2 V. om. ^3 *Sic.*
^4 So V. Our MS. has 'yet,' an obvious slip.

notwthstanding he might live in y^{e} same ranck and condic̄on he lived in before: but now they find [1] men tenn Times more then they are worth.

Frewill

The puritans who will allow noe ffree will, but God do's all, yet will allow y^{e} subject his liberty to doe or not doe nothwth-standing y^{e} King, y^{e} God upon earth. The Armenians[2] who hold wee have ffree will; yet [say][3] when wee come to y^{e} King there must be all obedience, and noe liberty must be stood for.

Fhiends (*a*)

Old ffreindes are best: King James used to call for his old shoes, they were easiest for his ffeet.

Fryers

1. They ffryers say They possesse nothing: whose then are y^{e} Lands they hold? not their Superiors he hath vowed Poverty as well as they: whose then? to Answer this T'was decreed [fo. 35] they should say they were the popes and why must y^{e} ffryers be more p[er]fect then y^{e} pope himselfe?

2. If there had been noe ffryers Christendome might have continued quiet and things remained att y^{e} stay: If there had been no Lecturers (which succeeded[4] y^{e} ffryers in their way) the Church of England might have stood and flourished att this day.

(*a*) This spelling persisted among educated writers, though not printers, till the nineteenth century. Jane Austen used it regularly.

[1] A slip for 'fine'; correctly given in V.

[2] *Sic:* should be Arminians (V.). In the last line of the par. the copyist either nearly or quite wrote 'now' meaning 'noe.'

[3] Supplied from V.

[4] V. succeed.

Christs Genealogie

They y^{t} say y^{e} reason why Josephs pedigree is sett downe and not Mary's is because the discent from y^{e} mother is lost and swallowed up say some thing; for soe it was (but yet if A Jewish woman marryed with a Gentile they onely tooke notice of y^{e} Mother and not y^{e} ffather) But they y^{t} say they were both of A Tribe say nothing; for y^{e} Tribes might marry one wth Another The Law ag[ains]t it was onely temporary in y^{e} time of y^{e} Israelites while Joshua was a divideing[1] y^{e} Land; least y^{e} being soe long about it, there might be a confusion.

2. That Christ was the sonn of Joseph is most exactly true for though he was the Sonn of God yet with y^{e} Jewes if any man kept A Child and brought him up and cal'd him sonn he was taken for his sonn; and his Land (if he had any) was to descend
[fo. 35b] upon him, and therefore y^{e} Genealogie of Joseph is Justly sett downe.

Gentlemen

1. What A Gentleman is; tis hard wth us to define. In other Countrys he is known by his priviledges: In Westminster Hall he is one y^{t} is reputed one: In y^{e} Court of Honour he y^{t} has[2] Arms: y^{e} King can not make A Gentleman of blood (what have you sayd ?[3] Nor God Almighty(*a*)) but he can make A Gentleman by creac̄on; If you Ask which is y^{e} better of these two. Civilly y^{e} Gen[tleman] of blood, morally y^{e} Gentleman by creac̄on

(*a*) We must understand that Milward made an exclamation of surprise, not immediately seeing the point that a man's birth is in the irrevocable past. Rex fingere potest, Deus ipse diffingere non potest.

[1] V. dividing, R. in dividing.
[2] V. hath.
[3] Parenthesis closed here in R. No break in V.

may be y^e better for y^e other may be A deboist[1] man; This A person of worth.

2. Gentlemen have been ever[2] more Temperate in their Religion then y^e Common people; as haveing more reason; y^e others running w^th[3] A hurry; In y^e beginning of Christianity y^e ffathers writt contra Gentes and contra Gentiles They were all one. but after all were Christians y^e better sort of people still retained y^e name of Gentles through out y^e 4 provinc̃es of y^e Roman Empire as Gentil: home in ffrench; Gentel: homo in Italian; Gentil = hombre in Spanish[4]; Gentleman in English And they noe question being p[er]sons of quality; kept up those ffeasts w^ch wee borrow from y^e Gentles as Christmas Candlemas May day; continuing what was not directly ag[ains]t Christianity which y^e Common people would never have endured. [fo. 36]

Gold

There are two reasons given why those words (Jesus autem transiens per medium Eorum ibat) were about our old Gold (*a*) y^e one is because Ripley y^e Alchimist; when he made Gold in y^e Tower y^e first time he found it he speake those words (p[er] medium eorum) y^t is p[er] medium ignis & Sulphuris: Y^e other is because those words were thought to be A Charme; and y^t they did bind what soever they were written upon; soe y^t A man could not take it Away; To this reason I rather incline.

(*a*) King Edward III.'s rose nobles. For the rest, I cannot find that any one really knows more than Selden did. Cp. Ruding, 'Annals of the Coinage of Great Britain,' 3rd ed. 1840, i. 220.

[1] This variant form of 'deboshed' was not uncommon in 17th–18th cent., see O.E.D. V. debauched.

[2] V. ever been.

[3] V. in.

[4] V. ins. and. As to the preceding words, probably no MS. has them all right. W. and R. print 'gentil-huombre.' Our scribe's 'Gentles' above is, I believe, right, marking the identity of 'gentle' with 'gentile.'

Hall

The Hall was the place where y^e^ Great Lord did use to eate (wherefore else were y^e^ Halls made soe big) where he saw all his servants and ten[an]ts about him ; he eate not[1] private except in time of Sicknesse (*a*) : when once he became a thing Coopd up ; all his greatnesse was spild ; Nay y^e^ King himselfe used to eate in y^e^ Hall and his Lords satt w^th^ him and then he understood men.

Hell

There are Two Texts for Christs discending in[2] Hell ; the one Psalme. 16 y^e^ other Acts, 2 where y^e^ bible that was in use when the 39 Articles were made (*b*) ; has it (Hell) but y^e^ Bibles that were in Q. Eliz. time when y^e^ Articles were confirmed ; reads it
[fo. 36*b*] (Grave) and soe it continued till y^e^ new Translac̄on in King James time and then tis (Hell) againe ; but by this wee may gather, y^e^ Church of England declined as much as they could y^e^ discent otherwise they never would have altered y^e^ Bible.

2. Hee descended into hell (*c*) : This may bee the interpretation of it, hee may bee dead & buried, then his Soule ascended into heaven, afterwards he descended into hell againe, that is into the grave to fetch his body & to rise againe. The ground of this interpretation, is taken from the Platonick learning who held a Metemsphichosis [*sic*], & when a Soul did descend from heaven to take another body, they called it [*κατάβασιν εἰς ᾅδην*][3] takeing

(*a*) See Reynolds's note.
(*b*) The Geneva Bible, see Reynolds's note.
(*c*) From this point onward the writing is definitely Italic and much neater.

[1] V. ins. in.
[2] V. into.
[3] Omitted in our MS. Apparently the Greek was too much for the scribe.

ἅδης, for the lower world, the State of Mortallity; Now the first Christians were many of them platonick philosophers, & no question spake such language as then was understood amongst them. To understand by (hell) the Grave is no Tautologie because the Creed first tells what Christ suffered, hee was crucified dead & buried, then it tells us what hee did, hee descended into hell, the third day hee rose againe, hee ascended &c.

Holy-Dayes

They say the Church imposes holydayes, there's no such thing, tho' the number of the holydayes is sett downe in some of our Comon prayer bookes, yet that has relation to an Act of Parliam^t^ w^ch^ forbidds the keeping any other holydayes, the ground whereof was the multitude of holydayes in time of Poperie. But those [fo. 37] that are kept, are kept by the Custome of the Country, I hope you will not say the Church imposes that.

Humility

1. Humility is a virtue all men preach, none practice, & yet every body is content to heare, the Master thinks it good Doctrine for his Servants, the Layty for the Clergie, & the Clergie for the Layty.

2. There is humilitas quædam in vitio, if a man does not take notice of that Excellency and p[er]fection[1] that is in himself how cann hee bee thankfull to God, who is the author of all excellency & p[er]fec̄on, Nay if a man has too meane an opinion of himself, 'twill render him unserviceable both to God & man.

3. Pride may bee allow'd to this or that degree, else a man

[1] The words 'and perfection' interlined.

cannott keepe upp his dignity, In Gluttons[1] there must bee eating, in drunkeness there must bee drinking, 'tis not the Eating, nor 'tis not the drinking that is to bee blam'd, but 'tis the Excess, So in pride.

Idolatry

Idolatry is in a mans owne thought, not in the Opinion of another. Put case I bow to the Altar, why am I guilty of Idolatry, because a Stander by thinks so ; I am sure I doe not beleive the Altar to bee God, & the God I worshipp may bee bow'd to[2] in all places & att all times.

Jewes

[fo. 37*b*] 1. God att the first gave laws to all Mankind, but afterwards hee gave peculiar lawes, to the Jewes w^ch^ they only were to observe, Just as wee have the Comon Law for all England, & yet ye have some Corporations, that besides that, have peculier lawes & priviledges to themselves.

2. Talke what you will of the Jewes, that they are curs'd they thrive where ere they come, they are able to oblige the prince of the Country by lending him money. None of them beg, they keep together. And for their hatred, my life for yo[u]rs Christians hate one another as much.

Invincible Ignorance

'Tis all one to me, if I am told of Christ or some mystery of Christianity, if I am not capable of understanding it, as if I am not told att all, my ignorance is as invincible. And therefore

[1] S. gluttony (without remark, seemingly conj.), whom R. follows ; but in the absence of any MS. variant I think Milward wrote ' gluttons.'

[2] Interlined.

'tis vain to call their ignorance only invincible, who never were told of Christ,[1] The Trick of it is, to advance the Preist, whilst the Church of Rome sayes, a man must be told of Christ by one thus and thus ordain'd.

Images

1. The Papists takeing away the Second Comandm[t] is not haply so horrid a thing, nor so unreasonable among Christians as wee make it, for the Jewes they could make no figure of God, but they must comitt Idolatry, because hee had taken no Shape, but since the assumption of our flesh, wee knowe what shape to picture God in, Nor knowe I why wee may not make his Image, provided wee bee sure what it is; is[2] as wee say, St. Luke tooke [fo. 38] the Picture of the Virgin Mary, & S[t]. Veronica of our Saviour: otherwise it would bee no honor to the King to make a picture & call it the Kings Picture when tis nothing like him.

2. Though the learned Papists pray not to Images, yet 'tis to bee feared the Ignorant doe, as appears by that tale[3] of S[t]. Nicholas in spaine (tell the Story: vide *Lords*[4]) And to this tended the bowing of their Images; the twinkling of their Eyes; the Virgins Milk &c., had they meant only representation, a picture

[1] The scribe first wrongly omitted the words 'and therefore . . . invincible,' and, having no room to interline them when he saw the mistake, proceeded with them but forgot to delete the misplaced words 'who never were told of Christ.' This is now done.

[2] *Sic.* V. has only one 'is,' so that as = for instance. But our MS. has a distinct mark between the two *is*'s, which goes to negative accidental repetition. I suspect that our scribe's archetype read 'if, as we say . . .' Either way the sentence is rather elliptical.

[3] So R. V. story.

[4] The story will be found at p. 74 below, *sub tit.* 'Lords before the Parliament,' where indeed it fits in well enough. V. gives the fuller version here. Our MS. stands alone in postponing it. I should guess that Milward hesitated where to place the story, and left his papers in a condition that did not make his final intention clear.

would have done it, without these tricks, Itt may bee with us in England they doe not worshipp Images, because living amongst protestants, they are laught out of it or beaten out of it by shock of Argument.

3. 'Tis a discreet &c. [see below].

Imperiall Constitutions

They say Imperiall Constitutions did only confirme the Canons of the Church, but that is not soe, for they inflicted punishm^t^. w^ch^ the Canons never did: viz^t^. If a man converted a Christian to bee a Jew, hee was to forfeit his Estate & loose his life, In Valentines[1] Novells, 'tis said, Constat Episcopos forum legibus non habere, Et judicant tantum de religione.

3. Tis a discreet way concerning pictures in Churches to sett upp no new, nor to pull downe no old.[2]

Imprisonment

S^r^ Kenelme Digby was sev[er]all times taken & lett go againe, att last imprisoned in Winchester house (*a*) I cann compare him to nothing but to a great fish, that wee catch[ed] & lett goe againe, [fo. 38*b*] but still hee will come to the Baite, att last therefore wee putt him into some great pond for store.

(*a*) In 1641–1643, on suspicions, not without plausibility, of Romanist and Royalist intrigues. He had already been summoned to the bar of the Commons but not actually imprisoned: so 'several times taken' appears to be an exaggeration.

[1] W. and R. corr. Valentinian's, S. only in note. R. gives a reference to the Novels of Valentinian III. tit. 34.

[2] This sentence properly belongs to the title 'Images' above (as in V.), and the scribe actually began copying it there: I cannot see why he transposed it to this place.

Incendiaryes

Fancy to yo^r^selfe, A man setts the Citty on fire att Criplegate, & that fire continues by meanes of others till it come to White fryers, & then hee that begann it would faine quench it, does not hee deserve to bee punished most that first sett the Towne on fire? So tis w^th^ the Incendiaries of the State; they [that][1] first sett it on fire, (by Monopolies, fforest business, imprisoning the parliam^t^ men (*a*) 3 Car[oli] &c.) are now become regenerate & would feine quench the fire, certainly they deserved most to bee punished for being the first Authors of our distracc̄ons.

Independency

1. Independency is in use att Amsterdam, where you have[2] fforty Churches or Congregations have nothing to doe one with another, And 'tis no question, agreeable to the primitive times before the Emperour became Christian: for either wee must say every Church governed it selfe or else wee must fall upon that old foolish Rock, That S^t^. Peter & his Successors governed all, But when the Civill state became Christian they appointed who should governe who[3]; before, they govern'd one another by Agreem^t^. & consent; If you will not doe this & this you shall come no more amongst us; but both the Independent man & the presbiterian man doe equally exclude the Civill power though after a different manner.

2. The Independent may as well plead they should not bee

(*a*) Selden himself was one of these, see in the biography at p. 162 below.

[1] Supplied from V.

[2] V. om. you have.

[3] V. them [*qu.* a printer's amendment], R. whom. The MS. text is hardly acceptable.

[fo. 39] subject to temporall things, not come before a Constable, or a Justice of Peace, as they plead they should not be subject in spirituall things, because S^{t}. Paul sayes, Is it so, that there is not a wise man amongst you ?

3. The Pope challenges all Churches to bee under him, the King and the two Arch Bishopps challenge all the Church of England to bee under them, the presbiterian man divides the Kingdome into as many Churches as there bee presbiteries (*a*), & yo^{r} Independent would have every congregation a Church by it selfe.

Things Indifferent

In time of Parliam^{t}. when things are under debate they are indifferent, but in a Church or state settled there's nothing left indifferent.

Publick Interest

All might goe well in the Comon Wealth if every one of the Parliam^{t}. would lay downe his owne interest, & aime att the generall good, If a man were sick, & the whole Colledge of Phisicians should come to him, & administer sev[er]ally, haply so long as they observed the Rules of art, hee might recover. But if one of them had a great deale of Scamony by him, hee must putt of[f] that, therefore he p[re]scribes Scamony, Another had a great deal of Rubarbe & hee must putt of[f] that, therefore hee p[re]scribes Rubarbe &c. They would certainly kill the man Wee destroy the Comon wealth, whilst wee p[re]scribe our owne private Interest & neglect the Publicke.

(*a*) ' Presbiteries ' must be taken as meaning synodical assemblies, otherwise the statement is not correct : see Reynolds's note.

Humane Invention

[fo. 39b]

1. You say there must bee no humane Invention in the Church, nothing but the pure word. Answ^{r}: If I give any exposition but what is expressed in the Text, that is my Invencōn,[1] if you give another Exposition, y^{t} is yo^{r} Invencōn, & both are humane

ffor Example, Suppose the word (Egge) were in the Text, I say ti's meant a henn Egg, you say a Ghoose Egg, Neither of these is expressed, therefore are they humane Invencōn, And I am Sure, the newer the Invencōn the worse, old Invencōns are best.

2. If wee must admitt nothing but what wee read in [the][2] bible what will become of the Parliam^{t}. for wee read not of that here.[3]

Gods Judgements

Wee cannott tell what is a Judgm^{t}. of God, 'tis p[re]sumpc̄on to take upon us to knowe. In time of plague wee knowe wee want health, & therefore wee pray to God to give us health, In time of Warr wee knowe wee want peace, & therefore wee pray to God to send us peace. Comonly wee say a Judgm^{t}. falls upon a Man for something in him wee cannott abide.

An Example wee have in K. James, concerning the death of Hen: 4. of ffrance. One said hee was killed for his wench[ing][4] Another said hee was killed for turning his Religion, No, sayes K. James (who could not abide fighting) he was killed for p[er]-mitting Duells in his Kingdome.

[1] I have suppressed the scribe's eccentric doubling of the *c*.

[2] Supplied from V.

[3] V. do not read of that there: a mistaken emendation, I suspect. Selden may well have said 'here,' laying his hand on a Bible.

[4] Corrected from V.

[fo. 40]

Judge

Wee see the Pageants in Cheapside, the Lyons & the Elephants, but wee doe not see the men that carry y^{m}; [we see the Judges look big, look like lions, but we do not see who moves them].[1]

2. Little things doe great workes, when great things will not. If I would take upp a pinn from the ground, a little paire of Tongues will doe it, when a great paire will not; goe to a Judge to doe a business for you, by no meanes hee will not heare of it, but goe to some small servant about him, & hee will dispatch it, according to yo^{r} hearts desire.

3. There could bee no mischeife done in the Comon Wealth without a Judge; though there bee false dice brought in att the Groome Porters (*a*) & cheating offered, yet unless hee allow the cheating, & Judge the Dice to be good, there may bee hopes of ffaire play.

Jugling

'Tis not Jugling that is to bee blam'd, but much Jugling, for the world cannott bee govern'd without it. All yo^{r} Rhetorick & all yo^{r} Elenchs in Logick come wthin the Compass of Jugling.

Jurisdiction

There's no such thing as Spirituall Jurisdic$\bar{c}$on, all is civill, the Churches is the same with the Lord Mayors, suppose a Christian came into a pagan Country how cann you ffancy hee should have any power there, hee finds fault with the Gods of the Country,

(*a*) See Reynolds's note.

[1] The words here supplied from V. are strangely omitted in our MS. Without them the saying has no point. Was Selden thinking of Bacon's 'lions under the throne'?

well, they will putt him to death for it, When hee is a Martyr: What followes, does that argue, hee has any Spirituall Jurisdiccon? [fo. 40b] If the Clergie say the Church ought to bee governed thus & thus by the word of God y^ts doctrinall,[1] that is not discipline.

2. The Pope hee challenges Jurisdiccon over all the Bipps They p[re]tend to it as well as hee, The Presbiterians they would have it to themselves, But over whom is all this, the poor Laymen.[2]

Jus Divinum

1. All things are held by Jus Divinum either immediately or mediately.

2. Nothing has cost the Pope so much in his supremacy, as not acknowledging what Princes gave him, Tis a scorne upon the civill power, & an unthankfullness in the Preist.

But the Church runs to Jus divinum, least if they should acknowledge what they have, they held by positive Law, it might bee as well taken from them as it was given them.

King

1. A King is a thing men have made for their owne sakes for quietness sake. Just as in a ffamily One man is appointed to buy the Meate, if every man should buy, or if there were many buyers they would never agree, one would buy what the other liked not, or what the other had bought before, so there would bee a confusion; but that Charge being comitted to one, hee according to his discretion pleases all, if they have not what they would have one [fo. 41] day, they shall have it the next, or something as good.

2. The word (King)[3] directs our Eyes. Suppose it had binn

[1] So S. (seemingly conj.). V. doctrine all. [2] R. layman.
[3] Second bracket accidentally omitted in MS.

Consull, or Dictator. To thinke all Kings alike is the same folly, as if a Consull of Alleppo or Smyrna should claime to himselfe the same power that a Consull at Rome had[1]; what, am not I a Consull? or a Duke of England should thinke himself like the Duke of fflorence, nor cann it be imagined that the word (Βασιλεὺς) did signifye a King, the same way in Greeke as the Hebrew Word כלר[2] did w^th^ the Jewes; besides, lett divines in their Pulpitts say what they will, they in their practice deny that all is the Kings, they sue him (*a*) and soe doe all the Nation, whereof they are a part. What matter is it then what they preach or talke in the schooles?

3. Kings are all individually, this or that King, there is no Species[3] of King.

4. A King that claimes priviledges in his owne Kingdome because they have them in another, is just as a Cooke that claimes fees in one Lord's house, because they are allowed in another; if the Master of the house will yeild them, well & good.

5. The Text (Render unto Cæsar the things that are Cæsar's) makes as much ag[ains]t Kings as for them, for it says plainly that something is not Cæsars[4] But Divines make choise of it, first in flattery, & then because of the other parte adjoin'd to it (render

(*a*) Not in the ordinary forms of law, as Selden of course very well knew: see below, tit. King of England, no. 1.

[1] So R. and [conj.] S. Ed. pr. and W. om.

[2] So all known copies: our scribe's tracing of characters unknown to him is awkward but recognizable. These letters, however, I learn from good authority, do not spell any Hebrew word of the sense required, and must be a mistake for מלך, *melech*, the common word for 'king.' The corruption seem. to go back to a MS. archetype very near Milward's original. It is strange that Selden's editor Wilkins, who was a learned Orientalist, passed it without remark (if he did, see Introd. p. xiii above). One can hardly ascribe it to Milward: perhaps he employed a copyist on his rough notes.

[3] Interlined over deletion.

[4] makes . . . Cæsar's interlined.

unto God the things that are Gods) where they bring in the Church.

6. A King outed of his Country that takes as much upon him as hee did at home[1] in his owne Court, is as if a man that stood upon the Leads, & I being upon the ground us[e]d to lift upp my voice to him that hee might heare me, att length [he][2] should come downe to me,[3] & then expect I should speake as lowd to him as I did before. [fo. 41b]

King of England

1. The King cann doe no wrong, that is, no process cann bee granted ag[ains]t him, you cann have no remedy ag[ains]t him, what must bee done then ? petition him & the King writes upon the petition, Soit droit fait, & sends it to the Chancery, & then the business is heard. His Confessor will not tell him hee cann doe no wrong.

2. There is a great deale of difference betwixt head of the Church & Supreame Governer, as our Canons call the King. Conceive it thus, there is in the Kingdome a Colledge of phisitians, the King is Supreame Governour of these, because they live under him, but not head of them, nor president of ye Colledge nor the best phisitian.

3. After the dissolution of the Abbyes, they did[4] much advance the Kings Supremacy, for they only car'd to exclude the pope,

[1] at home interlined. [2] MS. not clear.

[3] Milward's original or an early copy of it must in this place have been, by reason of damage or minute corrections, all but illegible. Our MS. gives the only satisfactory reading : R. from Harl. MS. 2, As if a man and I being upon different ground, Ed. pr. a man on high, and I being upon the ground. Sloane MS. ap. R. upon a tree. It is hard to make anything of R.'s 'different'; and also to see how the clear and appropriate words 'upon the leads,' *i.e.* on the roof, became corrupted unless by accidental defacement. 'Upon a tree' looks like a conjectural attempt to supply a lost word, a little better than 'on high' but not much.

[4] So R. V. ins. 'not,' which still leaves the sense obscure.

Hence have wee had sev[er]all translations of the Bible putt upon us, but now wee must looke to't, for otherwise the King may putt upon us what Religion hee please.

4. Twas the old way when the King of England had his house
[fo. 42] there were Canons to sing service in his Chappells (*a*). So at Westminster in S^{t}. Stephens Chappell (where the house of Comons sitts), from w^{ch} Canons the street Canon Row had its name because they lived there. And hee had also his Abbott & his Monks & all these made the King's house.

5. The three Estates are, the Lords Temporall, the Bipp̄s are[1] the Clergie, & the Comōns, the King is not one of the three Estates[2] as some would have it (take heed of that) for then if two agree, the third is involv'd, but hee is King of the three Estates (*b*).

6. The King hath a Seale in every Court, & though the great Seale be called, Sigillum Angl[iæ], the great Seale of England, tis not because, tis the Kingdomes seale and not the Kings, but to distinguish it from Sigillum Hiberniæ, Sigillum Scotiæ.

7. The Court of England has much altered. Att a Solemne dancing, first you have the grave measures, then the Corantoes & the Galliards, & all this is kept upp wth ceremony, att length they fall to Trenchmore,[3] & so to the Cushion Dance,[4] Lord &

(*a*) See Reynolds, Excursus C. One is tempted to conjecture 'where' for 'when': if 'when' is right this must be one of Selden's latest sayings.

(*b*) Reynolds's comment, excellent so far as it goes, now calls for more supplement than can well be given in a footnote. See the special Note, p. 150 below.

[1] W. for, seemingly conj.

[2] So R. and, I am informed, the Edinburgh MS. V. om. The King . . . estates, destroying the sense.

[3] 'An old English country dance, of a lively or boisterous nature,' O.E.D. *s.v.* citing this passage *int. al.* and noting the 'Fr——' of ed. pr., as a misprint: R., however, says the Brit. Mus. MSS. make the same blunder. S. gives the correct reading, *qu.* by conj., without remark.

[4] V. ins. 'and then all the company dance': the omission in our MS. seems erroneous.

Groome, Lady and Kitchin Maid, no distinction : So in our Court. In Queen Eliz: time, Gravitie & state was kept upp. In King James time things were pretty well But in K. Charles time there has binn nothing but Trenchmore & the Cushion dance, Omnium gatherum, totty[1] polly, hoyte come toyte.

The King [fo. 42b]

1. Tis hard to make an accomodation betwixt the King & the Parliam^t^. If you & I fell out about money, you said I owed you Twenty pounds, I said I ow'd you but Tenn poundes, it may bee a third partie allowing me Twenty marks might make us freinds, But if I said I ow'd you 20^li^. of [2] Silver, and you said I ow'd you Twenty pound of Diamondes, w^ch^ is a sume innumerable, 'tis impossible wee should ever agree This is the Case.

2. The King useing the house of Comons, as hee did in M^r^. Pym & his Company, that is chargeing them with treason [because they][3] charged my Lord of Canterbury & S^r^. George Ratcliffe it was just with as much Logick as the boy that would have layen with his Grandmother said to his father, You lay with my Mother & why[4] should I not lye with yo^rs^.

3. There is not the same reason for the Kings accuseing men of Treason & carrying them away, as there is for the houses themselves, because they accuse one of themselves, ffor every one that is accused is either a peer or a Comoner, & hee that is accused had his consent goeing along with him ; but if the King accuses, there is nothing of this in it.

4. The King is equally abus'd now as before ; then they flatter'd him & made him doe ill thinges, now they would force him against his Conscience. If a phisitian should tell me that every [fo. 43]

[1] V. tolly. The jingle seems right. [2] 'Diamonds' deleted.
[3] Supplied from V. Our scribe has two unintelligible letters before 'charged.' The Brit. Mus. MSS. omit 'because.'
[4] 'may' deleted.

thing I had a mind to, was good for me, tho' in truth 'twas poyson, hee abus'd me, & hee abuses me as much, that would force me to take something whether I would or no.

5. The King so long as hee is our King may doe with his Officers what hee please, as the Master of the house may Turne away all his servants, & take whom hee pleases.[1]

6. The Kings oath is not security enough for our prop[er]ty for hee sweares to Governe according to Lawe, Now the Judges they interprett the Law, & what Judges cann bee made to doe wee all[2] knowe.

7. The King & Parliam[t]. now falling out, are just as when there is offered foule play betwixt Gamesters. One snatches the others stake, they seize what they cann of one[3] anothers 'tis not now to bee asked, whether it belongs not to the King to doe this or that; before when there was faire play it did, But now they will doe both, what is most convenient for their owne safety, If two fall to scufling, one tares the others band, the other tares his band; when they were freinds they were quiett & did no such thing, they lett one anothers bands alone.

8. The King calling his freinds from the Parliam[t]. because hee had use of them at Oxford, is as if a man had use of a little peece of wood, & hee runns downe into the Cellar & takes the spigott & in the meane time all the beere runns about the house, When his freinds are absent the King will be lost.

[fo. 43b] 9. Tis hard &c. retro.[4]

Knights Service

Knight Service in earnest meanes nothing, for the Lords are bound to wait upon the King when hee goes to Warr with a

[1] V. please. [2] V. om. [3] Interlined.

[4] Meaning, apparently, that the first par. of this title was repeated by mistake in our scribe's immediate original.

forreigne Enemye, with it may bee one man & one horse, & hee that does not is to bee [rated][1] soe much as shall seeme good to the next parliam[t]. & what will that bee, So 'tis for a private man that holds of a gentleman.

Land

1. When men did lett their lands under ffoote(*a*), the tenants would fight for their Landlords, so that way they had their retribution, but now they will doe nothing for them, nay bee the first, if but a Constable bid them, that shall lay the Landlord by the heeles, & therefore tis vanity & folly not to take the full value.

2. Alodium is a Law word contrary to (ffeudum), and it signifies Land, that holds of no body. So regna allodiatia are Kingdomes that are not held in ffee of any body.[2] Wee have no such land in England. Tis a true proposition All the Land in England is held either imediately or mediately of the King.

Language

1. To a living tongue new words may bee added, but not to a dead tongue as latin, Greeke, Hebrew.

2. Latimer is the corruption of Latiner, it signifyes Hee that interpretts latine, & tho' hee interpreted ffrench or Spanish or [fo. 44] Italian, hee was called the Kings Latimer, i.e. The Kings Interpreter.

3. If you looke upon the language spoken in the Saxon time & the language spoken now, you will find the difference to be just, as if a man had a Cloake that hee wore plaine in Queene Eliz:

(*a*) 'i.e. for less than their value': R. citing an example from Bacon's essay on Usury.

[1] Supplied from V. Our MS. has a blank space following a deletion.

[2] V. om. this sentence. R. has it, reading 'allodiata'; the only admissible form, however, is *allodialia*, see Du Cange.

dayes, & since has putt in here a peece of redd & there a peece of blew, here a peece of Greene & there a peece of Orange Tawney. Wee borrow words from the ffrench, Italian, Latine, as every pedantick man pleases.

4. Wee have more words then notions, halfe a douzen words for the same thing, sometime wee putt a new significacōn to an old word, as when wee call a peece a Gun. The word (Gun) was in use in England, for an Engine to cast a thing from a man long before there was any Gunpowd^{r}. found out(*a*).

5. Words must bee fitted to a mans mouth; twas well said of the fellow that was to make a speech for my Lord Maior, hee desired to take measure of his Lordshipps mouth.

Law

1. A man may plead, not guilty, & yet tell no lye, ffor by the Law, no man is bound to accuse himselfe. So when I say, Not guilty, the meaning is as if I should say by way of paraphrase,
[fo. 44*b*] I am not so guiltie as to tell you, if you will bring me to tryall & have me punished for this you lay to my Charge; prove it against me.

2. Ignorance of the Law excuses no man, not that all men knowe the Law, but tis an excuse every man will plead & no man can tell how to confute him.

3. The King of Spaine was Outlaw'd in Westminster hall I being of Councell against him. A merchant had recovered cost[s] against the King of Spaine[1] in a suite, w^{ch} because it could not bee gott, we advised to have him outlaw'd for his not appearing, & so hee was, As soone as Gondimar[2] heard that, hee p[re]sently

(*a*) See R.'s note, and O.E.D. *s.v.* Selden was right, but it is not clear what his authority was.

[1] V. him. [2] *Sic.* V. Gondomar, correctly.

sent the money, by reason if his Master had stood outlaw'd hee could not have had the benefitt of the Law, w^{ch} would have been very p[re]judiciall, there being then many suites depending betwixt the King of Spaine & our English Merchants.

4. Every Law is a Contract betwixt the Prince[1] & the people & therefore to bee kept. A hundred men may owe me a 100^{li}. as well as one man, & shall they not pay me, because they are stronger than I? *Ob*: O but they loose all if they keep that law. *Ans*: Lett them looke to the makeing of their bargaine, If I sell my land, & when I have done one comes & tells me, I have nothing els to keep me, I & my wife & my children must starve if I part with my land, must I not therefore lett them have my land that has[2] bought it & paid for it?

5. The Parliam^{t}. may declare law, as any Inferiour Court [fo. 45] may, vizt. The Kings Bench, In this or that perticuler case, the Kings bench will declare unto you what the Law is, but that binds no body but whom that case concernes, so the highest Court the Parliam^{t}. may doe but not declare Law, that is, make Law, that was never heard of before (*a*).

Law of Nature (*b*)

I cannot fancy to my Selfe what the Law of nature meanes, but the law of God, how should I knowe I ought not to steal,

(*a*) R. rightly points out that Selden here speaks of Parliament in its judicial, not in its legislative capacity.

(*b*) According to the classical doctrine developed by the medieval canonists, natural law is a body of ethical principles ascertainable by human reason, but divine because reason itself, being God's gift to man, is a kind of revelation. It may and indeed must be supplemented by specific commandments of both divine and human lawgivers, but cannot be contradicted. *Cp.* my *Essays in the Law*, ch. ii. pp. 42, 43. I have

[1] V. King. [2] V. have.

I ought not to comitt Adultery, unless somebody had told me, or why are these things ag[ains]t nature ?[1] Surely, 'tis because I have been told soe, 'tis not because I thinke I ought not to doe them, nor because you thinke I ought not, if soe our minds might change ; whence then comes the restraint ? from a higher power, nothing else cann bind, I cannott bind my selfe (for I may untye my selfe againe) nor an equall cannott bind me (wee may untie One another) It must be a Superiour. even God Almightie, If two of us make a bargaine, why should either of us stand to it, what need you care what you say, or what need I care what I say, certainly because there is something above[2] me, tells me, ffides est servanda, and if wee after alter our minds & make a new bargaine, there's fides servanda there to[o].

Learning

[fo. 45*b*] 1. No man is the Wiser for his Learning it may administer matter to worke in, or Objects to worke upon, but witt & wisdome are borne with a man.

2. Most mens learning is nothing but History duely[3] taken upp

there observed that, if Selden really meant to deny that there is any natural law apart from a specially sanctioned revelation, he would be more Hobbist than Hobbes, who does start from a law of reason. His published work, 'De iure naturali et gentium iuxta disciplinam Ebraeorum' purports on the face of it to deal only with Jewish doctrine, and so cannot help us here. The question remains whether Milward understood Selden aright. Possibly what Selden meant to convey was that natural law has no definite sanction until it is reinforced by positive law, divine or human.

[1] V. om. or why . . . nature.

[2] V. about : which is barely compatible with Selden's argument.

[3] R. dully, which seems clearly right : and so S. (without explanation) in the corrigenda to his first ed., but (I suspect by printer's inadvertence) not in the second. S. might have seen the true reading in MS. Harl. 1315, but it is a permissible pious opinion that it was a conjecture communicated by FitzGerald.

If I quote Tho: Aquinas for some Tenet, & beleive it, because the schoolmen say soe, that's but History: few men make themselves masters of the things they write or speake.

3. The Jesuites & the Lawyers of ffrance & the Low Country men have engrossed all learning, the rest of the world make nothing but Homilies.

[4]. T'is observable that in Athens, where the Arts flourished they were governed by a Democracy. Learning made them thinke themselves as wise as any body, & they would governe as well as others, & they spake as it were by way of contempt, that in the East & in the North they had Kings, & why? because the most part of them follow'd their business, & if some one man had made himselfe wiser then the rest, he govern'd them & they willingly submitted to him. Aristotle makes the Observacon(*a*) And as in Athens the philosophers made the people knowing & therefore they thought themselves wise enough to governe, so does preaching with us, & that makes us effect a Democracy, ffor upon these two grounds wee would all bee Governours, either because wee thinke our selves as wise as the best, or because we thinke our selves the Elect, & have the Spiritt, & the rest a Company of Reprobates, that belong to the Devill.

Lecturers (*b*) [fo. 46]

1. Lecturers doe in a parish[1] what the ffryers did heretofore; gett away not only the affections, but the bounty that should be bestowed on the Minister.

2. Lecturers gett a great deale of money, because they preach

(*a*) See the passages quoted in R.'s note.
(*b*) For the historical explanation see Reynolds's notes.

[1] V. ins. church: the sense is well enough without it, but our scribe's omission may be a slip.

the people tame, (as a man watches a hawke(*a*)) & then they doe what they list with them.

3. The Lecture in Blackfryers p[er]form'd by Officers of the Army, Tradesmen & Ministers, is as if a great man should make a ffeast, & hee would have his Cooke dress one dish & his Coachman another & his porter a third &c.

Libells (*b*)

Though some make slight of Libells, yet you may see by them how the wind sitts ; as, take a straw, & throw it upp into the aire, you shall see by that w^{ch} way the wind is, w^{ch} you shall not doe by casting upp a stone—More solid things doe not shew the Complexion of the times so well as Ballads and libells.

Litturgie

1. There is no Church without a Litturgie, nor indeed cann there bee conveniently, as there is no Schoole without a Gram̄er, One Scholler may bee taught otherwise upon the Stock of his Acumen, but not a whole Schoole, One or two that are piously disposed may serve God[1] themselves their owne way but hardly a whole Nation.

[fo. 46*b*] 2. To know what was gen[er]ally beleived in all ages the way is to consult the Litturgies, not any private mans writing. As if you would know how the Church of England serves God goe to the Comon prayer booke, consult not this or that man ; besides

(*a*) Keeps it awake, see Shakespeare quotations in R.'s note.

(*b*) In Selden's time pamphlets and the like were so called without distinction ; the exclusive application to defamatory matter came in later.

[1] V. om., much to the detriment of the sense.

Litturgies never complement, nor use high expressions, The ffathers oft times speake Oratoriously.

Lords before the Parliam^t.[1]

1. Great Lords by reason of their flatteryes,[2] are the first that know their owne vertues & the last that know their owne vices, some of them are ashamed upwards because their Ancestors were too great others are ashamed downwards[3] because they are too mean.

2. The Prior of St. John's[4] is said to bee primary Baro Angl[iae] the first Baron of England, because being last of the Spirituall Barons hee chose to be first of the Temporall, hee was a kind of Otter, a Knight halfe Spirituall halfe Temporall (*a*).

3. Quest. Whether is every Baron a Baron of some place? Answ^r. Tis according to his Pattent; of late yeares they have been made Barons of some place, but Anciently not, called only by their S[i]r Name, or the S[i]r name of some family into w^ch they have been married.

4. The makeing of new Lords[5] lessens all the rest, 'Tis in the [fo. 47] business of Lords as 'twas w^th. S^t. Nicholas's Image The Country man you knowe could not find in his heart to adore the new Image made of his owne plum-tree though hee had formerly worshipped the Old one,—The Lords that are ancient wee honor, because we knowe not whence they were, but the new ones wee slight because wee know their beginning.

(*a*) See Reynolds's Excursus D.

[1] Our MS. agrees with R. in the order of this and the following title; they are transposed in earlier edd.

[2] V. flatterers.

[3] Interlined.

[4] V. adds: of Jerusalem.

[5] Written over 'names' deleted.

Vide Images[1]

A Countryman us'd dayly to offer[2] to S[t] Nicholas's Image: Att length by a mischance the Image was broken. & a New one made of his owne plumtree. After that the man forbore; being complain'd of to[3] his Ordinary, hee answered, Tis true, hee us'd to offer to the old Image, but to the New hee could not find in his heart, because hee knew that 'twas a peece of his owne plumtree; you see what opinion this man had of the Image, & to this tended &c.

5. ffor the ffirst[4] Irish Lords to take upon them here in England, is as if the Cooke in the ffayers[5] should come to my Lady Kents (*a*) Kitchin & take upon him to roast the meat there, because hee is a Cooke in another place.

Lords in y[e] Parliam[t].

1. The Lord[s][6] giveing protecc̄ons is a scorne upon them— A protecc̄on meanes nothing actively, but passively hee that is a servant to a parliam[t]. man is thereby protected, what a scorne is it to a person of honor to putt his hand & seale to two lyes att
[fo. 47*b*] once, That such a man is my servant & imployed by me, when haply he never saw the man in his life, nor before never heard of him.

2. The Lords protesting is foolish, To protest is p[ro]p[er]ly to save to a mans selfe some right, but to protest as the Lords

(*a*) Selden was living at Lady Kent's house in Whitefriars, see Reynolds's note.

[1] This fuller version is transferred from tit. Images (p. 55 above) by our MS. alone.
[2] V. to offer daily. [3] 'the' deleted. [4] V. om.
[5] i.e. fairs, but an error for 'fryers,' i.e. Whitefriars, R.'s reading. V. fair.
[6] Supplied from V.

protest, when they themselves are involv'd, 'tis no more then if I should goe into Smithfeild & sell my horse & take the money, & yet when I have yo[r]. money & you my horse, I should protest this horse is mine, because I love the horse, or I doe not knowe why. I protest because my opinion is to the contrary[1]:— ridiculous; When they say, the Bishopps aunciently did protest, it was only dissenting & that in the Case of the Pope.

Marriage

1. Of all actions of a mans life, his marriage does least concerne other people, yet of all accōns of our life tis most medled with by other people.

2. Marriage is nothing but a Civill contract, Tis true, tis an Ordinance of God, soe is every other contract, God comands me to keep it, when I have made [it][2]

3. Marriage is a desperate thing, the ffroggs in Esop were extreame wise, they had a great mind to some water but they would not leape into the Well, because they could not gett out againe.

4. Wee single out p[ar]ticulers, & apply Gods providence to them; thus when two are married, & have undone one another, they say twas Gods providence wee should come together, When Gods providence doth equally concurre to all things.[3]

Marriage of Cousin Germans [fo. 48]

Some men forbear to marry Cousen Germans out of this kind of Scruple of Conscience, because twas unlawfull before the Reformacon, & is still in the Church of Rome, & soe by reason

[1] V. do protest . . . contrary to the rest. The punctuation here given is my own; it seems required by the sense.

[2] Supplied from V.

[3] V. everything.

their grandfather or[1] their great Grandfather did not doe it, upon that old score they think they ought not to doe it, As some men forbeare flesh upon ffryday not r^e^flecting upon the statute w^ch^ with us makes it unlawfull, but out of an old scor^e^, because the church of Rome forbidds it, & their forefathers allwayes forbor^e^ flesh upon that day. Others forbeare it out of a naturall consideracõn, because tis observed for Example in Beasts, if two Couple of a neere kind, the Breed proves not so good, the same Observacõn they make in plants & Trees, w^ch^ degenerate being grafted upon the same stock. And 'tis also further observ'd those matches betwixt Cousin Germans seldome prove fortunate, but for the Lawfullness of it, there is no Colour, but Cousin Germans in England may marrie both by the Law of God & man, ffor [with us][2] wee have reduc'd all the degrees of marriage to those in the Leviticall Law and 'tis plaine theres nothing ag[ains]t it. As for that that is said, Cousin=garmons once remov'd may not marrye & therefore if[3] a further degree may not, 'tis p[re]sumed a neerer should not, no man cann tell what it meanes.

Measure of things

1. We measure for our selves & as things are for our use & purpose so wee approve them, Bring a peare to the Table y^t^ is rotten, wee cry it downe, tis nought; but bring a Medler, O![4] tis
[fo. 48b] a fine thing: & yet I warrant you the Peare thinks as well of it selfe as the Medler does.

2. Wee measure the Excellencie of other men by some Excellency wee conceive to be in our selfes. Nash a poett, poor enough,

[1] 'grand' deleted.

[2] Corr. from V. for 'which as' in our MS., a manifest clerical error. But I half suspect that the archetype read 'forasmuch as.'

[3] V. being. S. conj. (quite needlessly) seeing.

[4] V. that is rotten, and . . . : apparently the gloss of a very dull copyist.

(as poetts use to bee), seeing an Alderman with his gold Chaine upon his great horse, by way of scorne said to one of his Companions, Doe you see yon ffellow, how goodly, how bigg hee lookes, why that fellow cannott make a Blanke verse.

3. Nay wee measure the excellency of God from ourselves, wee measure his goodness his Justice, his wisdome by something wee call just good or wise in our selves, & in soe doeing wee judge p[ro]porcōnably to the Country ffellow in the play, who said, If hee were a King hee would live like a Lord, & have pease & Bacon every day & a Whipp that cry'de Slash.

Difference of Men

The difference of men is very great, you wou'd scarce thinke them to bee of the same species. And yet it consists more in the affection then in the Intellect, for as in the strength of the body two men shall bee of an equall strength, yet one shall appeare stronger then the other, because hee Exercises and putts out his strength, the other will not stirr nor straine himself, so 'tis in the strength of the Braine, the one endeavours, straines, labours & studies, the other sitts still & is idle, & takes no paines, [fo. 49] & therefore hee appear[e]s soe much the Inferiour.

Minister Divine

1. The Imposic̄on of hands upon the Minister when all is done will be nothing but the designacōn of a p[er]son, to this or that office, or imployment in the Church 'Tis a ridiculous phrase that of the Canonists (Conferre ordines) 'tis, Coaptare[1] aliquem in ordinem, to make a man one of us, one of our Number, one of

[1] *Sic.*

our order So Cicero would understand what I said, it being a phrase borrowed from the Latine & to bee understood prop[ort]ionably to what was amongst them.

2. Those words you now use in makeing a Minister (receive the holy Ghost) were used among the Jewes att the makeing of a Lawyer (*a*) from thence wee have them, w^{ch} is a villanous key to something, As if you would have some other kind of præfecture then a Majoraltie, & yet keep the same Ceremony that was us'd in makeing the Maior.

3. A Preist has no such thing as an indelible[1] Character: what difference do you find betwixt him & an other man after Ordinacōn? Onely he is made a preist (as I said) by designacōn, as a Lawyer is called to the barr. then made a serjeant, All men that would gett power over others make themselves as unlike them as they cann; upon the same ground, the preists made
[fo. 49*b*] themselves unlike[2] Laytye.

4. A Minister when hee is made is a materia prima apt for any forme the state will putt upon him, but of himself hee cann doe nothing: Like a Doctor of Law in the Universitie, hee has a great deale of Law in him, but cannott use it, till hee bee made some bodyes Chanceller (*b*), or like a phisitian before he bee received into a house hee cann give no body phisick; indeed after the Master of the house has given him Charge of his Servants,

(*a*) What Milward here reports Selden as saying is not only inaccurate but quite inconsistent with what Selden wrote for the learned world. He did write that the Holy Spirit was believed to rest on those who had been duly appointed judges and elders: see Reynolds's note.

(*b*) That is, some Bishop's Chancellor. His law learnt at the University could only be Civil Law; English Universities did not meddle with teaching the Common Law for about another century. Degrees in Canon Law ceased, of course, to be conferred after the Reformation.

[1] Correction hastily written above the line. [2] V. ins. the.

then he may, Or like a Suffragan that could doe nothing but give orders and yet hee was [a][1] Bishopp.

5. A Minister should preach according to the Articles of the Religion Established in the Church, where hee lives, To bee a Civill Lawyer, lett a man read Justinian & the body of the[2] Law(*a*) to conforme[3] his braine to that way, but when hee comes to practice, hee must make use of it so farr, as it concerned the Law received in his owne Country. To bee a phisitian, Lett a man read Gallen & Hipprocrates, but when hee practices he must apply his Medicine according to the temper of th[o]se mens bodyes where hee lives, & have respect to the heat & cold of the Clymate ; otherwise that w^{ch} in Pergamus where Gallen liv'd was phisick in our cold Clymate may be poyson : so to bee a Divine, Lett him read the whole body of Divinity, the ffathers and the Schoolemen, but when hee comes to practice hee must use[4] it & apply it according [fo. 50] to those grounds & Articles of Religion that are established in the Church, & this with sence.

6. There bee foure things a Minister should bee att, the Conc[i]onatory[5] part, Ecclesiasticall story Schoole divinity And the Casuists.[6]

(*a*) The Corpus Iuris, consisting of the Institutes, Digest and Code. Selden here alludes to the distinction between the jurisdictions where the Roman texts were positive law and those where they had only the persuasive authority of written reason ; in France, *pays de droit écrit* and *pays de droit coutumier*.

[1] Our MS., apparently with all others, reads ' no ' : but, as R. points out, this is contrary both to fact and to the argument ; another proof that Milward did not revise the fair copy of his notes.

[2] R. om. [3] So R. V. confirm. [4] Interlined.

[5] MS. *e* for *i* by a slip ; it is right in the next par. V. conscionary : both the longer and the shorter form were in use. Another slip, ' these ' for ' those,' is corrected in par. 5 above.

[6] First words of following sub-heading run on by mistake and struck out. Sub-headings in MS. are marked 1, 2, 3, 4 : now with Roman numerals throughout.

i. ffor the Concionatory p[ar]te hee must read all the Cheife ffathers, both Latine & Greeke wholly. S^{t}. Austine, S^{t}. Ambrose, S^{t}. Chrisostom, both the Gregoryes &c.—Tertullian, Clemens Alexandrinus & Epiphanius w^{ch} last have more learning in them then all the rest, & writt freely.

ii. ffor Ecclesiasticall Story, Lett him read Baronius with the Maydeburgenses & bee his owne Judge, the One being extreamly for the papists, the other Extreamly for the protestants.

iii. ffor Schoole Divinity lett him gett [C]avellus's Edition of Scotus, or May[r]o,[1] where there bee Quotations that direct you to every Schoolman, where such & such a question is handled. Without schoole Divinity a Divine knowes nothing Logically, nor will bee able to satisfye a rationall man out of the pulpitt.

iv. The study of the Casuists must follow the study of the Schoolmen, because the division of their Cases is according to their divinity, otherwise hee that beginns with them will knowe little,
[fo. 50*b*] as hee that beginns with the study of Reports and Cases in the Comon Law will thereby know little of the law. Casuists may bee of admirable use, if discreetly dealt with, though among them you shall have many leaves together very imp[er]tinent(*a*) A Case well decided would stick by a man, they would remember it whether they will or noe, whereas a quaint Exposition dyes in the birth. The main thing is to know where to search, for talke what they will of vast memories, no man will p[re]sume upon his owne memory for any thing hee meanes to write or speake in publick.

7. Goe and teach all Nations: this was said to all Christians y^{t} then were, before the distinccõn of Clergie & Layty: there have been since men designed to preach onely by the state, as

(*a*) Irrelevant to the purpose of your search.

[1] These names appear, seemingly in all old copies, as Javellus, Mayco: for the certain correction see R.'s note. *Cp.* other obvious misspellings above.

some men are designed to study the Lawe, others to study phisick. When the Lords supper was instituted there was none p[re]sent but the disciples, shall none therefore but Ministers receive?

8. There's all the reason you should beleive yo[r]. Minister unless you have studied divinity as well as hee, or more then hee.

9. T'is a foolish thing to say a Minister must not meddle with secular matters, because his owne profession will take upp the whole man, may hee not Eate or drinke or walke, or learne to sing? the meaning of it is hee must seriously intend his calling.

10. Ministers with the Papists (that is their preists) have much respect, with the Puritans they have much, & that upon [fo. 51] the same ground, they p[re]tend to come both of them imediately from Christ, but with the protestants they have very little, the reason wher[e]of is: In the beginning of the Reformacōn they were glad to gett such[1] to take Livings as they could procure by any Invitacōns, things of pittifull condition; the Nobility and Gentry would not suffer their sonns or kindred to meddle with the Church, & therefore att this day when they see a parson, they thinke him to bee such a thing still, & there they will keepe him & use him accordingly. If hee bee a gentleman borne that is singled out,[2] hee is used the more respectively.

11. [That][3] the Protestant Minister is least regarded, appeares by the old story of the Keeper of the Clinke (*a*). Hee had Preists of sev[er]all sorts sent him, as they came in, hee asked them, who they were: Who are you? (to the first) I am a Preist of the Church.[4] Keeper: You are welcome,[5] there bee those will take care of you; & who are you?—A silenc'd Minister. Keep[er][6]: You are welcome too, I shall fare the better for you. And who

(*a*) See R.'s note.

[1] Here and in the line above some words written in wrong order and deleted.
[2] V. ins. and. [3] Supplied from V. [4] V. ins. of Rome.
[5] V. you are welcome, quoth the keeper. [6] V. om.

are you? A Minister of the Church of England. Keep[er]: O God helpe me,[1] I shall gett nothing by you, I am sure, you may lye & starve & rott before any body will looke after you.

[fo. 51b] 12. Methinks 'tis an Ignorant thing for a Churchman to call himselfe the Minister of Christ because S^t^. Paul, or y^e^ Apostles call'd themselves soe. If one of them had a voice from heaven, as S^t^. Paul had, I will grant hee is a Minister of Christ, & I will call him soe too. Must they take upon them as the Apostles did? Can they doe as the Apostles[2] could? the Apostles had a marke to bee knowne by, spake tongues, cur'd deseases, trod upon serpents &c. cann they doe this? If a Gentleman tell me, hee would send his man to me, & I did not knowe his man, but hee gave me this marke to knowe him by, hee should bring in his hand a rich Jewell, if a ffellow came to me with a p[e]b[b]le[3] stone, had I any reason to beleive hee was the gentlemans man?

Money

1. Money makes a man laugh, A blind fidler playing to[4] a Company & playing but scurvily, the Company laugh'd att him, his boy that lead him p[er]ceiveing it, cry'd, ffather letts bee gone, they doe nothing but laugh att you. Hold thy peace, Boy, sayes the fidler, wee shall have their money p[re]sently & then wee will laugh att them.

2. Euclide was beaten in Boccaline (*a*) for teaching his Schollars a Mathematicall figure in his schoole, whereby hee

(*a*) *Cp.* tit. *War*, s. 11, p. 138 below, and see Reynolds's notes in both places. In the text one is rather tempted to conjecture 'lines' for 'lives,' but the MS. reading is quite clear.

[1] V. O God help me, quoth the keeper.—These variants look like wilful change, *cp.* p. 76 above.
[2] 'did' deleted. [3] MS. pible. [4] 'his' deleted.

shew'd that all the lives both of princes & private men tended to one Center, Con Gentilezza, handsomely to gett money out of other mens pocketts & putt it into their owne.

3. The Pope heretofore us'd to send the Princes of Christendome to fight ag[ains]t the Turks. But prince & pope Jugled finely together the moneyes were rais'd & some men went out to the holy warr; But comonly after they had gott the money the Turke was pretty quiett & the prince & y^e^ pope shar'd it betweene them.

4. In all times the Princes in England have done something illegally to gett money, but then came a Parliam^t^. & all was well, the people & the prince Kiss'd & were freinds & so things were quiett for a while. Afterwards ther^e^ was another trick found out to gett money, & after they had gott it, another Parliam^t^. call'd to sett all right &c. But now they have soe out runn the Constable——[1] [fo. 52]

Morall Honesty

They that cry downe morall honestye cry downe that w^ch^. is a great part of Religion, my duty towards man: for Religion consists in these two, my duty towards God & my duty towards man. What care I to see a man runn after a sermon if hee cousen & cheats me[2] as soone as hee comes home? On the other side Morallity must not bee without Religion, for if soe it may change as I see convenience, Religion must governe it, Hee that has not Religion to governe his Morallity is not a Dramme better then my Mastiff dog. so long as you stroke him & please him & doe not pinch him, hee will play with you as finely as may bee, hee's a very good morall Mastiff, but if you hurt him hee will fly in your face & tare out yo^r^. throate.

[1] So apparently in all copies. I see no reason to doubt that the sentence was purposely broken off.

[2] So R. V. om.

Mortgage

Case,[1] I receive a 1000li. & Mortgage as much land as is worth 2000li. to you, if I doe not pay the money att such a day, I faile,
[fo. 52b] whether may you take my Land and Keep it in point of Conscience? *Ans*: If you had my lands as a securitie only for yor. money, then you are not to keep it, but if we bargained soe, that if I did not repay yor. thousand pounds my Land should goe for it, bee it what it will, no doubt you may wth. a safe Conscience keep it(*a*), ffor in these things all the Obligacon is, Servare ffidem.

Number

All those misterious things they observe in Numbers come to nothing upon this very ground, because Number in it selfe is nothing, has not[2] to doe with nature, but is a thing meerly of humane Imposicōn, a meer sound, ffor Example when I say[3] One a Clock, 2 a Clock, 3 a Clock that is but mans division of time, the time it selfe goes on, & it had been all one in Nature, if those houres had binn called 9. 10. 11.(*b*) So when they say the seaventh sonne is fortunate, it meanes nothing, for if you count from the seaventh sonne backwards, then the first is the seaventh, & why is hee not[4] likewise fortunate?

(*a*) In other words, a Court of equity ought not to interfere if it is satisfied that such a bargain was freely and deliberately made. Selden cannot have intended to maintain, against the practice already settled in the Court of Chancery, that the mere form of the transaction was conclusive.

(*b*) Summer time is just calling noon one o'clock instead of twelve: some of the protests against it showed that Selden's illustration is still not superfluous. He would have liked to have the supposed sanctity of Greenwich mean time for a text.

[1] V. In case. [2] R. nothing: and so S., giving no authority.
[3] V. cry; which is appropriate only to a watchman. [4] V. not he.

Oathes

1. Swearing was another thing with the Jewes then with us, because they might not pronounce the Name of the Lord Jehovah.

2. There is no oath scarcely but wee sweare to things wee are ignorant of, ffor Example, The Oath of Supremacy, How many [fo. 53] know how the King is King, what are his rights & his prerogatives ? So how many knowe what are the priviledges of the Parliam^{t}. & the liberty of the subject when they take the protestacõn, (*a*) But the meaning is, they will defend them when they doe knowe them ; As if I should sweare I would take part with all that wear^{e} Red=ribbons in their hatts, it may bee I doe not knowe, w^{ch} Colour is Redd, but when I doe knowe & see a Red=ribbon in a mans hatt, then I will take his part.

3. I cannott conceive how an Oath is impos'd where there is a parity, viz^{t} : In the house of Comons, they are all *pares inter se*, onely one brings a paper & shewes it to the rest, they looke upon it & in their owne sence take it. Now they are but *pares* to me, who am one[1] of the house, ffor I doe not acknowledge my selfe their subject If I did, then no question I was bound by an[2] oath of their imposeing ; 'tis to me but reading [a paper][3] in my[4] owne sense.

4. There is a great difference betwixt an Assertory Oath and a promissory Oath ; an Assertorie Oath is made to Man before God, and I must sweare soe as man may knowe what I meane,

(*a*) The oath of members of the House of Commons as settled in 1641, see Reynolds's note.

[1] 'None' in all known copies, but, as Reynolds was the first to observe, it is a manifest error for 'one,' and I follow him in correcting it.
[2] R. om. seemingly by a slip. [3] Supplied from V.
[4] So R. V. their : which is nonsense.

but a promissory Oath is made to God only (*a*), and I am sure he knowes my meaning. Soe in the New Oath it runns (whereas I beleive in my Conscience &c. I will assist thus & thus) that (whereas) gives me an out=loose for if I doe not beleive soe, for ought I know, I swear not att all.

[fo. 53*b*] 5. In a promissory Oath *the mind I am in*[1] is a good interpretacōn, for if there be enough happen'd to change my mind, I doe not knowe why I should not. If I promise to goe to Oxford to morrow & mean it when I say it & afterward it appeares to me that twill bee my undoeing, will you say I have broke my promise, if I stay att home ? (*b*) certainly I must not goe.

6. The Jewes had this way with them concerning a promissory Oath or vowe. If one of them have[2] vowed a vow, w^{ch} afterwards appear'd to him to bee very p[re]judiciall, by reason of something hee either did not foresee or did not thinke of when hee made his vowe, if hee made it knowne to three of his Country men they had power to absolve him, though hee could not absolve himselfe, & y^{t} they pick'd out of some words of the Text. Perjury has only to doe with an Assertory Oath, & no man was punished for perjury by mans Law till Queen Eliz: time, 'twas left to God (*c*) as a Sinn ag^{t}. him, the reason was because twas so hard a thing

(*a*) This qualification, as Reynolds observes, will not hold generally and must therefore be taken as referring to the parliamentary oath mentioned in par. 3 above.

(*b*) This must be understood of gratuitous promises. Selden as a lawyer knew very well that if I promise for valuable consideration to go to Oxford, and something happens which makes it highly inconvenient for me to go, nevertheless (except in certain peculiar and strictly limited cases) I break my contract by not going.

(*c*) In practice to the ecclesiastical courts.

[1] Italics substituted for the curved brackets in MS. (equivalent to quotation marks).

[2] V. had.

to prove a man p[er]jur'd ; I might [mis][1]understand him & yet he swear as he thought.

[Two paragraphs numbered 7 and 8 in V. are given among the supplementary items, p. 146 below.]

7. Now Oathes are so frequent, they should bee taken like pills swallow'd whole, if you chew them you will find them bitter, if you thinke of what you sweare twill hardly goe downe.

Oracles

Oracles ceas'd p^e^sently after Christ, assoone as no body beleived them. Just as wee have noe ffortune-tellers nor wise-men (*a*), when noe body cares for them Sometime ye have [a][2] season of them, when people beleive them, & neither of these I conceive ever[3] wrought by the Devill. [fo. 54]

Opinion

1. Opinion & affeccōn extreamly differr. I may affect a woman best, but it does not follow, I must thinke her the handsomest woman in the world. I love Apples the best of any fruitt, it does not follow that I must thinke apples to bee the best of ffruite. Opinion is something wherein I goe about to give reason, why all the world should thinke as I thinke ; affeccōn is a thing wherein I onely looke after the pleasing of my selfe.

2. T'was a good fancy of an old Platonick, The Gods w^ch^ are above man had something whereof man did partake (an[4] intellect, knowledge) & the Gods kept on their Course quietly : the beasts w^ch^ are below man had something whereof man did

(*a*) ' Wise woman ' is still current in dialect.

[1] Supplied from V. [2] Supplied from V. [3] V. om.
[4] All copies agree, but ' as ' would read better.

partake (sense & growth) and the beasts liv'd quietlie in their way; but man had something in him wher^eof neither Gods nor beasts did p[ar]take, w^ch gave him all the trouble & made all the Confusion wee see in the world, & that is, opinion.

[fo. 54b] 3. Tis a foolish thing for me to bee brought of from an opinion in a thing neither of us knowe, but are ledd only by some Cobwebb stuff, as in such a Case as this, Utrum Angeli invicem colloquuntur[1]? If I forsake my side in such a Case[2], I shewe my selfe wonderfullie light or infinitely Complying or flattering the other p[ar]tie. But if I bee in a business of Nature (*a*), and I hold an Opinion one way, & some mans experiment had found out the contrary, I may with a safe Reputacōn give upp my side.

4. Tis a vaine thing to talke of an Heretick, for a man for his heart cann thinke no otherwise then hee does thinke. In the primitive times ther^e were sev[er]all opinions, nothing scarce but some or other held: one of these Opinions being Embrac'd by some prince & rec[eive]d into his Kingdome, the rest were condemn'd as heresees, & his Religion, w^ch was but one of the sev[er]all opinions,[3] first, is said to bee Orthodox and to have continued ever since the Apostles.

Parity

This is the Jugling trick of parity (*b*), they would have no body above them, but they doe not tell you they would have no body under them.

(*a*) I find no example of this phrase; it seems to mean a question of something *in rerum natura* and verifiable by observation, as contrasted with matter of mere speculation.

(*b*) The catch-word of the Puritan anti-episcopal opinion that the Church should be governed not by a hierarchy but by a body of equals. See Reynolds's note quoting Laud's condemnation of it.

[1] V. colloquantur, more correctly.

[2] Our MS. ins. 'as' by a manifest slip.

[3] The space of about a line left blank in the MS. for no apparent reason.

Parliament

1. All are involv'd in a parliam^{t}. There was a time when all men had their voice in chuseing Knights: about Hen: 6.[1] they ffound the inconveniencie, so one parliament made a Law, that only hee that had 40^{s}. p[er] anñ should give his voice, they under [fo. 55] should bee excluded, They made the Law, who had the voices of all as well under 40^{s}. as above, & thus it continues att this day. All consent civilly in a Parliam^{t}.: Women are involv'd in the men, Children in those of p[er]fect age,—Those that are under 40^{s}. in those that have 40^{s}. a yeare, those of fourty shillings in the Knights (*a*).

2. All things are brought to the Parliam^{t}., Little to y^{e} Courts of Justice, just as in a Room^{e}, where there is a Banquett p[re]sented, if there bee p[er]sons of Quallity, there the people must expect & stay till the great ones have done.

3. The Parliam^{t}. in flying upon sev[er]all men, & then letting them alone, does as a Hawke, that fflyes a Covey of Partridges, & when shee has flowne them a good way growes weary & takes a Tree, then the ffalconer lures her downe & takes her to his fist, On they goe againe, *hey ret* (*b*): up springs another Covey, away goes the Hawke, & as she did before takes another Tree, &c.

(*a*) County members.

(*b*) Here a common exclamation of encouragement is joined with an obscure word, appearing both by this passage and the practically contemporary quotation in O.E.D., 'Ret never springs the partridge,' to have to do with putting up a covey; the conjunction has escaped notice in the Dictionary and seems unique in print. The cry is not addressed to the hawk but rather to a dog; I find no trace of falconers ever having used special calls, and in modern falconry the lure is preferred to the voice (Gerald Lascelles in 'Badminton' volume on

[1] So R. V. about Henry the Sixth's time. *Qu.* whether 'about' be not a misreading of Milward's note of the date: Selden can hardly have been so vague.

4. Dissentions[1] in parliam[t]. [may][2] att length come to a good end,[3] tho' first ther[e] bee a great deale of doe & a great deale of noyce, wch madd wild folkes make: just as in Brewing of Wrest-beer[e], ther[e] is a great deale of business in grinding the Malt, & that spoiles any mans clothes that comes neer it; then it must be mash'd, then comes a ffellow in, & drinks of the Wort, & hee is drunke, then they keepe a huge quarter (*a*) when they carry it into the Cellar, & a Twelve month after tis delicate fine beer.

[fo. 55*b*] 5. Itt must necessarily bee that our distempers must bee worse then they were in the beginning of the Parliam[t]. If a phisitian comes to a sick man & letts him blood, it may bee scarrifyes him, cupps him, putts him into a greater disorder before hee make him well, And if hee bee sent for to cure an Ague, & hee finds his Patient has many deseases, a dropsie & a palsye, hee applyes remedies to them all, w[ch] makes the Cure the longer & the Dearer: This is the Case.

6. The Parliam[t]. men are as great Princes as any in the World, when whatever they please is priviledge of Parliam[t]. noe man must knowe the Number of their priviledges, and whatever they dislike is breach of priviledge. The Duke of Venice is no more then the Speaker in the house of Comons but the [Senate][4] att Venice are not so much as our Parliam[t]. men, nor have[5] that power

'Coursing and Falconry,' 1892, p. 232). Is it too fanciful to suggest a 'contamination' with Fr. *arrêter*, regularly used for 'pointing,' or even Anglicized corruption?

(*a*) Kick up a row, see O.E.D. viii. 27 for examples with various adjectives, and Baretti's rendering *fare un gran strepito*. Apparently 'Wrest-beer' is not known to occur anywhere else. Perhaps Selden was only talking of the annual brewing at Wrest, Lord Kent's country seat (p. 161 below).

[1] So R. V. dissenters. [2] Supplied from V.
[3] Our MS. inserts an unwanted '&,' it seems by a mere slip.
[4] Blank left in our MS. supplied from V.
[5] V. ins. they: *qu.* whether rightly.

over the people, who yet exercise the greatest tiranny that is any where. In plaine truth, Breach of priviledge is only the actuall takeing away of a Member of the house, the rest are offences ag[ains]t the house, for Example to take out p[ro]cess ag[ains]t a parliam^{t}.-man or the like.

7. The Parliam^{t}. p[ar]ty, if the Law bee for them, they call for law, if it bee ag^{t}. them they will goe to a parliamentary way If no[1] law bee for them, then for law againe, like him that call'd for sack to heate him, then for small drinke to coole his sacke, then sack againe to heate his small drinke.

8. The Parliam^{t}. p[ar]ty doe not shew faire play in sitting upp till two a Clock in the morning (*a*) to vote something they have a mind to, 'tis like a Crafty Gamester, that makes the Company drunke, & then cheats them of their money. Young men & infirme men goe away, Besides a man is not ther^{e} to p[er]swade [fo. 56] other men to bee of his mind, but to speake his owne heart, & if it bee liked, soe, if not, there's an end.

Parson

1. Tho' wee write (parson) differently, yet 'tis but person, that is the Individuall p[er]son sett a p[ar]te for the service of such a Church, & 'tis in Latine, *persona*; & *personatus* is a parsonage, Indeed with the Canon Lawyers *personatus* is any dignity or p[re]ferm^{t}. in the Church.

2. There was never a merry world since the ffairyes left danceing, & the parson left conjuring. The opinion of the Latter kept theeves in awe, & did as much good in a Country as a Justice of Peace.

(*a*) In the debate on the Grand Remonstrance, 1641; see Reynolds's note.

[1] So all copies, but clearly something is wrong: R. conj. om. 'no,' but I doubt whether it be so simple a matter.

Patience

Patience is the Cheifest fruite of study; a man by striveing to make himself a different thing from other men by much reading, gaines this cheifest good, that in all fortunes hee has something to entertaine & comfort himself withall.

Peace

1. K. James was pictured goeing softly downe a paire of staires & upon every stepp there was written, peace, peace, peace. The wisest way for men in these times is to say nothing.

2. When a Country Wench cannott gett her butter to come, shee sayes the Witch is in her Churcne. Wee have been churning for peace a good while, & twill not come, surely ye witch is in it.

3. Tho' wee had peace yet twill bee a great while, ere things bee settled, tho' the wind lye, yet after a storme · the sea will worke a good while after.

Penance

[fo. 56b] Penance with us is only the punishmt. inflicted, not penitence wch is the right word (*a*). A man comes not to doe penance because hee repents him of his sinn, but because hee is compell'd to it; hee curses him & could kill him that sends him thither. The old Canons wisely Enjoyned three yeares penance, sometimes more, because in that time a man might gett[1] a habitt of vertue, & soe comitt[2] that sinn no more, for wch hee did penance.

(*a*) See Reynolds's note. Selden appears to have had in mind the translation of 'poenitentiam' by 'penance' in Art. 33, which deals with reconciliation of an offender by public repentance.

[1] V. got. [2] V. committed.

People

1. There is not any thing in the World more abus'd then this Sentence *Salus populi suprema lex esto*, for wee apply it, as if wee ought to forsake the knowne law when it may bee most for the advantage of the people, when it meanes no such thing: for first, tis not *salus populi suprema lex est*, but *Esto*, it being one of the lawes of the 12 tables (*a*), & after divers lawes made, some for punishm^t^, some for reward, then followes this, *Salus populi suprema lex esto*, that is in all the Lawes you make, have a speciall Eye to the good of the people: And then what does this concerne the way they now goe?

2. *Obj*: Hee that makes one is greater then hee that [is made],[1] the people make the King, *Ergo*. *Ans*: This does not hold for if I have a 1000^li^. a yeare & give it you, & leave my selfe never a penny, I made you, but when you have my land you are greater then I. The parish make the Constable, & when the Constable is made, hee governes y^e^ parish, the Answ^r^. to all these doubts is, have you agreed soe? if you have, then it must remaine till you have altered it.

Philosophy

When men comfort themselves with philosophy, 'tis not because they have gott two or three sentences, but because they [fo. 57] have digested those sentences, & made them their owne, soe upon the matter (*b*) philosophy is nothing but discretion.

(*a*) Selden's memory was at fault for once. The maxim is in Cicero, *De Leg.* iii. 3 § 8, but he does not purport to give the actual words of the XII Tables or any ancient text, see ii. 7 § 18. No general maxims of this class are among the recognized fragments of the XII Tables.

(*b*) In truth.

[1] Corr. from V. Our MS. reads 'makes,' a manifest slip.

Pleasure

1. Pleasure is nothing else but the intermission of paine, the enjoying something I am in great trouble [for][1] till I have it (*a*).

2. Tis a wrong way to proportion other mens pleasures to our selves, tis like a Childs useing a little Bird, (o poor bird thou shallt sleep with me) soe layes it in his Bosome & stifles it with his hott breath; the bird had rather bee in the cold aire. And yet too 'tis the most pleasing fflattery to like what others like.

3. Tis most undoubtedly true that all men are equally given to their pleasure, only thus, one mans pleasure lyes one way, & anothers another, Pleasures are all alike simply considered in themselves; hee that hunts or hee that governes the Comon wealth, they both please themselves alike, only wee comend that, whereby wee ourselves receive some benefitt, as if a man place his delight in things that tend to the Comon good, Hee that takes pleasure to heare Sermons, Enjoys himselfe as much, as hee that heares playes And could hee that loves playes, endeavour to love Sermons possibly hee might bring himself to it, as well as to any other pleasure, at first it might seeme harsh & tedious but afterwards twould bee pleasing & delightfull, soe it falls out in that, wch is the great pleasure of some men Tobacco, att first they could not abide it, & now they cannott live without it.

[fo. 57*b*] 4. Whilst ye are upon Earth, Enjoy the good thinges yt are here (to that end were they given) & bee not Melancholly & wish yor. selfe in heaven. If a King should give upp[2] the keeping of a Castle with all thinges belonging to it Orchards Gardens &c., and bidd you use them, withall promise you after 20 yeares to remove

(*a*) For the Aristotelian doctrine, see Reynolds's note.

[1] Supplied from V.
[2] V. you: probably our scribe intended to write 'give you up.'

you to the Court & to make you a privy Councellor.: If you should neglect yor. Castle & refuse to Eate of those fruites, & sitt downe & whine, & wish 'that I was a privy-Counceller,' doe you thinke that the King would bee pleased with you?

5. Pleasures vizt. of Meates drinks cloathes &c are forbidden those that know not how to use them, just as Nurses Cry pah! when they see a knife in a Childs hand, shee will never say any thing to a man.

Poetry

1. Ovid was not only a fine poett, but as a man may speake a great Canon Lawyer, as appeares in his Fasti, where wee have more of the ffestivalls of the old Romans · then any where else. Tis pitty the rest are lost.

2. There is noe reason playes should bee in verse, either in blank or Rhyme, Only the poett has to say for himself, That hee makes something like that wch somebody made before him The old poetts had noe other reason but this, Their verse was sung to Musick, otherwise it had been a senseless thing to have fetter'd upp themselves (*a*).

3. I never converted but two, the one was Mr. Crashaw from writing ag[ains]t playes, by telling him a way how to understand [fo. 58] that place (*b*) (of putting on womans apparell) wch has nothing

(*a*) Selden's dictum, which at first sight appears to be extravagantly prosaic, is to be taken, I think, as applicable only to poetic drama and to the Greek dramatists in particular.

(*b*) *Deuteron.* xxii. 5. See R.'s note, referring *int. al.* to a letter of Selden's to Ben Jonson, *Works* ii. 1690. This letter is a typical specimen of Selden's exuberant learning. It begins with considering what are the man's armour that a woman shall not put on and the woman's garment that a man shall not put on; proceeds to quote Moses ben Maimon, whose 'authority is not of the common rank'—regretting that only a Latin version of the '*More Nebuchim*' or '*Ductor Dubitantium*' is accessible—and develop his exposition of the text as

to doe with the business (as neither has it, that the fathers speake ag[ains]t playes in their time with reason enough, for they had reall Idolatry mix'd with their playes, haveing three Altars p[er]-petually upon the Stage); the other was a Doctor of Divinity from preaching ag[ains]t painting, w^{ch}, simply in it selfe, is no more hurtfull then putting on my Clothes, or doeing any other thing to make my selfe like other folkes that I may not be odious or offensive to the Company. Indeed if I doe it with an ill Intenccōn, it alters the Case. Soe, if I putt on my gloves with an intenccōn to doe a mischeife, I am a villaine.

4. T'is a fine thing for Children to learne to make verse, but when they come to bee men they must speake like other folkes, or else they will bee laughed att. Tis ridiculous to speake or write or preach in verse; As tis good to learne to dance, a man learnes his legg, learnes to goe handsomely, but 'tis ridiculous for him to dance, when hee should goe.

5. Tis ridiculous for a Lord to print verses, 'tis well enough to make them to please himself but to make them publick is foolish. If a man in a private Chamber twirles his Band string, or playes with a Rush to please himselfe 'tis well enough, but if hee should goe into Fleet streete & sett upon a stall & twirle his bandstring or play with a Rush, then all the boyes in the streete would laugh att him.

directed against rites in which men personated a female and women a male deity; touches on the names of Semitic gods and goddesses, and decides that Dagon and Atergatis had feet as well as fish tails: and consecrates 'these no vulgar observations, if they had been to the common learned reader' to Ben Jonson's love, with hope of his instructing judgment. It must have pleased Ben Jonson to be addressed as Selden's equal in scholarship; what else he made of it I know not. Gifford very properly cited this letter to Ben Jonson's credit (*Works of B. J.*, ed. G. i. civ.).—Mr. Crashaw was probably not Richard the poet but his father William, see D.N.B. xiii. 36.

6. Verse proves nothing but the quantity of syllables, they are not meant for logick.

Pope

1. A popes Bull & a Popes breife differr much, as with us, the great seale & the privy seale, the Bull being the highest Authority the pope[1] cann give, the Breife is the lesse : The Bull has a leaden seale upon silke hanging to the Instrum^t., the Breife has *sub annulo piscatoris* upon the side. [fo. 58b]

2. Hee was a wise Pope, that when one that was us'd to bee merry with [him][2] before hee was advanced to the popedome refrain'd afterwards to come att him (presumeing hee was busie in governing the Christian world), the pope sends for him, bidds him come againe & (sayes hee) Wee will bee merry as wee were before, for thou little thinkest what a little foolerye governes the whole world (*a*).

3. The pope in sending Reliques to princes does as Wenches doe by their Wassall att New yeares tide, they present you with a Cupp, & you must drinke of a slabbie stuff, but the meaning is you must give them money tenn times more then it cost them.[3]

4. The Pope is infallible, when hee has power to comand, y^t is, where hee must bee Obeyed ; so is every supreame prince. They that stretch his Infallibility further, doe they knowe not what.

5. When a protestant & a papist dispute, they talke like two madmen, because they doe not agree upon their principles. The only way is to destroy the popes power, for if hee has power to

(*a*) It is perhaps an insoluble question who first said *Quantula sapientia regitur mundus* or something like it.

[1] So R. Ed. pr. king : a manifest error already corrected in W.
[2] Supplied from V.
[3] V. it is worth.

comand me, 'tis not my alledging reasons to the contrary cann keep me from obeying. For Example, if a Constable comand me to wear a greene suite to morrow & has power to make me, 'tis not my alledging a hundred reasons of the foolery of it cann excuse me from doeing it.

6. There was a time when the pope had power here in England & there was excellent use made of it, for twas only to serve Turnes
[fo. 59] (as might bee manifested out of the Records of the Kingdome, w^ch^ Divines knowe little of). If the King did not like what the pope would have, hee would forbidd his legate to land upon his ground,[1] so that the power was truly then in the King though suffered in the pope. But now the temporall & the spirituall power (spirituall soe called because ordain'd to a spirituall end) spring both from one fountaine, they are like two Twists that make upp the same Rope.[2]

7. The protestants in France beare office in the state, because tho' their Religion bee different, yet they acknowledge no other King but the King of France, the papists in England must have a King of their owne, a pope, that must have something to doe in our Kings Kingdome, therefore there is no reason they should enjoy the same priviledges.

8. Amsterdam admitts of all Religions but papists, & 'tis upon the same Acc^t^. ; the papists where ere they live have another King att Rome, all other Religions are subject to the present state & have no prince else where.

9. The papists call our Religion a parliamentary Religion, but there was once, I am sure, A parliamentary pope. Pope

[1] R. grounds.

[2] R. they are like two twists that ——. V. they are like to twist that : seemingly a printer's attempt to fudge the lacuna which our MS. alone supplies. (R. conj. ' are spun out of the same stuff,' a near enough guess in the absence of the true reading.) The gap in all other copies can be explained, it seems, only by some accidental damage to their common archetype.

Urban was made pope in England ag[ains]t pope Clem[en]t. by Act of Parliam[t]. The Act is not in the booke of Statutes (*a*), either because hee that compiled the Booke would not have the name of the pope there, or els hee would not lett it appeare that they medled with any such thing but 'tis upon the Rolles.

10. When our Clergie preach ag[ains]t. the pope & Church of Rome, they preach ag[ains]t. themselves, and crying downe their pride & their power & their riches has made themselves poor & contemptable enough. They [did it at][1] first to please their prince not considering what would follow, just as if a man was to goe a journey &, seeing att his first setting forth the way cleane & faire, ventures out in his slippers not considering the dirt & sloughs that ar[e] a little further of[f] or how suddenly the weather may change.

Popery

[fo. 59*b*]

1. The demanding a Noble for a Dead body passing through a Towne came from hence, In time of popery they carried the dead body into the Church where the preist said Dirges & 20 Dirges att four[e] pence a peece came[2] to an Noble. But now 'tis forbidden by an order from my Lord Marshall, the Heraulds carry his warr[an]t about them.

2. Wee charge the prelaticall Clergie with popery to make y[m] odious tho' wee know they are guiltye of no such thing, just as heretofore they call'd Images Mammetts & the adoration of Images

(*a*) Now in the Statutes of the Realm, see corrected translation in R.'s note.

[1] So S. (apparently conj.) and R. from corrected reading of Harleian MSS. Our MS. and the early edd. have 'dedicate,' an easy clerical error; the correction is certain even if conjectural.

[2] V. comes, R. come: our reading is rather better.

Mammetry (*a*), that is Mahometts & Mahometry, odious names, when all the world knowes the Turkes are forbidden Images by their Religion.

Power : State

1. There is no stretching of power : 'tis a good rule, eate within yo^r. stomacke, Act within yo^r. Comission.

2. They that governe most make least noyce ; you see, when they rowe in a Barge, they that doe the drugerey worke slash & puff & sweate but hee that governes setts quietly att the sterne & scarse is seene to stirr.

3. Syllables governe the world.

4. (All power is of God) meanes no more then *fides est servanda*. When S^t. Paul said this, the people had made a[1] Nero Emperour ; they agree,[2] hee to protect, they to obey ; then God[3] comes in & casts a hooke upon them, keep yo^r. faith ; then comes in, all power is of God. Never any King drop'd out of the Clouds ; God did not make Nero Emperour as the King makes a Justice of peace.

5. Christ himself was a great Observer of the civill power, & did many things only Justifiable because the state requir'd it, w^ch were things meerly temporary, for the time that state stood. But divines make use of them to gaine power to themselves, as for Example of that (Dic Ecclesiae), tell the Church ; there was then a synedrim, a Court to tell it too, & therefore they would have it soe now.

(*a*) The various forms of these words, and examples going back to the 14th century, may now be seen in the O.E.D. *s.vv.* maumet, maumetry.

[1] Written in as if by afterthought : not in V. [2] R. agreed.

[3] Ed. pr. Gods : following edd. God (and so, but wrongly, Arber's reprint of ed. pr.) : this was probably conjectural, but is confirmed by R. and our MS. Singer's guess that some such word as ' ordinance ' dropped out would be plausible if there were any real authority for ' Gods.'

6. Divines ought to doe no more then what the State permitts : [fo. 60] before the State became Christian they made their owne lawes, & those y^t^ did not observe them they excommunicated (naughty men), they suffered them to come noe more amongst them. But if they would come amongst them could they hinder them ? By what Lawe, by what power ? They were still subject to the State, w^ch^ was heathen. Nothing better expresses the condition of the Christians in those times then one of those meetings you have in London of men of the same Country ; for the purpose,[1] of Sussex men or Bedfordshire men ; they appoint their meeting & they agree & make lawes among themselves (hee that is not there shall pay double &c.) and if any one misbehave himself they shutt him out of their Company : but cann they recover a forfeiture made concerning their meetings by any law ? [2] have they any power to compell one to pay ? (*a*) but afterwards when the State became Christian all the power was in them, & they gave the Church as much or as little as they pleased, tooke away when they pleased & added when they pleased.

7. The Church is not only subject to the Civill power with us that are protestants, but also in Spaine ; if the Church does excommunicate a man for what it should not, the Civill power will take him out of their hands. Soe in France, the Bishopp of Angiers alter'd something in the Breviary, they complain'd to the

(*a*) Rather an odd question. In principle an action will doubtless lie for any proved breach of contract ; but in the case of a club or the like there may be trouble in making sure of the right parties. A religious order, however, (which the Church was in its primitive constitution) is not altogether like other voluntary societies. Anyhow Selden's dicta point in the direction of our modern legal doctrine.

[1] V. om. (the meaning is, as elsewhere, 'for example'). This omission is one of the proofs that our MS. is derived from a peculiar and superior archetype ; the fact that it is a minor one and might be overlooked is the reason for specially noting it.

[2] Some words repeated in error and struck out.

parliam[t]. of paris that made him alter it againe with a [*Comme d'abus*][1] (*a*).

8. The parliam[t]. of England has no Arbitrary power (*b*) in point of Judicature, but in point of makeing lawes.

9. If the prince be *servus Naturâ*, of a servile base spirit, & the subjects *liberi*[2] & ingenious, often times they depose their prince & governe themselves. On the contrary, if the people bee *servi Naturâ*, & some amongst them bee of[3] an ingenious free spiritt, hee makes himself King of the rest, & this is the Case of all changes in state, Comon wealths into Monarchyes, & Monarchyes into Comonwealthes.

10. In a troubled State wee must doe as in foule weather upon the Thames, not thinke to cutt directly through; soe, the boate
[fo. 60*b*] may be quickly full of water; but rise & fall as the waves doe, give as much as conveniently wee can.

Prayer

1. If I [were][4] a Minister I should thinke my selfe most in my office, reading of prayers & dispenceing of the Sacram[en][t]s. And 'tis ill done to putt one to officiate in the Church, whose person is contemptable out of it, Should a great Lady that was invited to bee a Gossipp, in her place send her Kitchin maid,

(*a*) See R.'s note. The 'appel comme d'abus' was equivalent to the English process of prohibition.

(*b*) Uncontrolled power to change existing law.

[1] The spelling of this quite common term, variously misspelt in all old copies, is here corrected. See the variants in R. Our scribe's intention is not quite clear.

[2] V. ins. free. As to 'ingenious' for 'ingenuous,' confusion both ways was frequent even in print from the 16th to the 18th century. See O.E.D.

[3] V. some one amongst them of. I suspect that our less grammatical reading is the genuine one.

[4] Our MS. is confused here.

twould bee ill taken, yet shee is a woman as well as shee ; lett her send her gentlewoman att least.

2. (You shall pray) is the right way, because according as the Church is settled no man may make a prayer in publick of his owne head.

3. Tis not the originall Comon prayer booke. Why, shew me an Originall Bible, or an originall Magna Charta (*a*).

4. Admitt the preacher prayes by the Spiritt, yet that very prayer is Comon prayer to the people, they are tyed to his words as much as in saying (Almighty & most mercifull father). Is it then unlawfull in the Minister, but not unlawfull in the people ?

5. There were some Mathematicōns that could with one fetch of their penn make an Exact circle, & with the next touch point out the Center. Is it reasonable therefore to banish all use of the Compasse ? Sett formes are a paire of Compasses.

6. (God hath given guifts unto men) Gen[er]all texts prove nothing, lett him shew me John William or Thomas in the Text, & then I will beleive him. If a man has a voluble tongue, wee say he has the guift of prayer. His guift is to pray long, that I see, but does he pray better ?

7. Wee take care what wee speake to men, but to God we may say any thing.

8. The people must not thinke a thought towards God but as their pastors putt it into their mouthes, they will make right sheepe of us.

9. The English preists would doe that in English w^{ch} the Romish doe in Latine, Keep the people in Ignorance, but some of y^{e} people outdoe them att their owne game. [fo. 61]

10. Prayer should bee short without giveing God Almighty

(*a*) The four extant originals of the Great Charter, two in the British Museum, one at Lincoln, and one at Salisbury, were not known to the learned world in Selden's time.

reasons, why hee should grant this or that; hee knowes best what is good for us. If yo[r]. Boy should aske you a suite of Cloathes & give you reasons (otherwise hee cannott waite upon you, hee cannott goe abroad but hee shall discreditt you) would you endure it? you knowe it better then hee; lett him aske a suite of Clothes.

11. If a servant that has been fedd with good beefe goes into that part of England where salmon is plenty [at first he is pleased with his salmon][1] & dispises his beefe, but after hee has binn there a while, hee growes weary of his salmon & wishes for his good beefe againe. Wee have been a while much taken with this praying by the spiritt, but in time wee may grow weary of it & wish for our Comon prayer.

12. 'Tis hoped wee may bee cur'd of our extempore prayers, the same way the Grocers boy is cur'd of his eating plums, when wee have had our belly[2] full of them.

Preaching

1. Nothing is more mistaken then that speech (preach the Gospell), for tis not to make long harangues as they doe now-a-dayes, but 'tis to tell the Newes of Christs comeing into the World, and when that is done or where 'tis knowne already, the preachers worke is done.

2. Preaching in the first sence of the word ceas'd as soone as ever the gospells were written.

[fo. 61*b*] 3. When the preacher sayes This is the meaning of the Holy Ghost in such a place, in sence hee cann meane no more but this, that is, I by studying of the place, by compareing one place with another, by weighing what goes before & what comes after,

[1] Supplied from V. Our scribe or his immediate predecessor was nodding more than usual.

[2] R. bellies: a learned copyist's would-be correction, I rather think.

thinke this is the meaning of the holy Ghost and for shortness of expression I say, The holy Ghost sayes thus or this is the meaning of the spiritt of God. So the Judge speakes concerning the Kings proclamac̄on, This is the intenc̄on of the King; not that the King has any other way declared his intenc̄on to the Judge, but the Judge examining the contents of the proclamac̄on[1] gathers by the purport of the words the Kings Intenc̄on, & then for shortness of expression sayes This is the Kings intenc̄on.

4. Nothing is Text, but as it was spoken in the Bible & meant there for p[er]son & place; the rest is applicac̄on, w^ch a discreet man may doe well, but tis his scripture not the Holy Ghost.

5. preaching by the spiritt (as they call it) is most esteem'd by the comon people, because they cannott abide art or learning, w^ch they have not been bred upp in: Just as in the business of fenceing if one Country ffellow among the rest has been att the schoole the rest will undervallue his skill, or tell him hee wants valour (you come with yo^r. schoole tricks, theres Dick Butcher has tenn times more metall in him) so they say to the preachers You come with yo^r. schoole learning, theres such an one has the Spirit.

6. The Tone in preaching does much in workeing upon the peoples affec̄on. If a man should make love in an ordinary tone his Mistress would not regard him, & therefore hee must whine. If a man should cry fire or Murther in an ordinary Voice no body would come out to helpe him.

7. Preachers will bring any thing into the Text, the younger [fo. 62] M^rs. of Art[2] preach'd ag[ains]t Non Residency in the University—whereupon the heads made an order, that no man should meddle with any thing, but what was in his Text. The next day one preach'd upon these words (Abraham begatt Isaac); when hee

[1] 'declaration' deleted. [2] V. young Masters of Arts.

had gone on a good way att last hee observed, That Abraham was Resident, for if hee had been non Resident, hee could never have begatt Isaac, & so fell foule upon the Non Residents.

8. I could never tell what often preaching meant after a Church is settled & wee know what is to bee done; 'Tis just as if a husbandman should once tell his servants what they are to doe, when to sowe when to reap, & afterwards one should come & tell them twice or thrice a day what they know already: You must sowe yo^{r}. wheat in October, You must reap yo^{r}. wheat in August &c.

9. The maine Argum^{t}. why they would have two sermons a day is because they have two meales a day, the soule must bee fedd as well as the body, but I may as well argue I ought to have two Noses because I have two Eyes or two Mouthes because I have two Eares; what have Meales & sermons to doe one with another?

10. The thinges between God & men[1] are but a few, & those forsooth wee must bee told often of, but the things betweene man & man are many, those I heare not of above twice a year, att y^{e} Assizes or once a quarter att sessions, but few come then, nor does the Minister ever exhort the people to goe att these times to learne their duty towards their Neighbour. Often preaching is, sure, to Keep the Minister in Countenance, that hee may have something to doe.

11. In preaching they say more to raise men to love vertue then men cann possibly performe, to make them doe their best; as if you would teach a man to throw the barr, to make him putt out his strength, you bid him throw further then 'tis possible for him or any man else: Throw over yonder house.

12. In preaching they doe by men as writers of Romances
[fo. 62b] doe by their Cheife Knights, bring him[2] into many dangers, but

[1] V. man. [2] V. them.

still fetch him[1] of[f]: so they putt men in feare of hell, but att last they bring them to heaven.

13. Preachers say Doe as I say, not as I doe. But if a phisitian had the same desease[2] upon him that I have, & hee should bidd mee doe One thing & himself doe quite another, could I beleive him?

14. preaching the same sermon to all sorts of people is as if a schoolem[aste]r should read the same lesson to his sev[er]all fformes. If hee reads, Amo, Amas Amavi, the highest forme laugh att him, the younger boyes admire him.[3] So tis in preaching to a mixt Auditory: *Quest.* But it cannott bee otherwise, the parish cannott bee divided into sev[er]all fformes, what must the preacher then doe in discretion? *Answ^r.* Why then lett him use some expressions by w^ch this or that Condition of people may know such Doctrine does more especially concerne them, it being soe delivered as the wisest may bee content to heare it, ffor if hee delivers it altogether & leaves it to them to single out what belongs to themselves (w^ch is the usuall way), 'tis as if a man would bestow gifts upon children of sev[er]all ages, 2 yeares old, 4 yeares old 10 yeares old &c., and there hee brings Topps, pins, Points, Ribbands and casts them all in a heape together upon a Table before them: tho' the boy of 10 yeares old can tell how to chuse his Topp, yet the Child of 2 yeares old that should have a Ribband, that[4] takes a Pinn & the pinn ere it bee aware pricks its finger, & the[n] all is out of order &c. Preaching for the most part is the glory of the preacher to shew him self a fine man. Catechiseing would be most[5] beneficiall.

15. Use the best Argum^ts to p[er]swade, though but few

[1] V. them. [2] Interlined. [3] This clause interlined.
[4] V. om. An obvious slip in the next line is corrected from V.
[5] R. more, V. would do much better; which looks like conjectural restoration of words rendered illegible by accidental damage, the variance being such as clerical error will not account for.

understand, for the Ignorant will sooner beleive the Judicious of the parish then the Preacher himself, & they teach when they dissi[p]ate[1] what hee has said, & beleive it the sooner confirm'd by men of their owne side, ffor betwixt the Laytie & the Clergie, there is as it were a continuall driveing of a bargaine, something the Clergie would still have us bee att, & therefore many things
[fo. 63] att first are heard from the preacher with suspicion (they are afraid of some Ends) w^ch^ are easily assented to when they have it from one of themselves. Tis with a sermon as w^th^ a play, many come to see it, w^ch^ doe not und^e^rstand it, & yet hearing it cry'd upp by one, whose Judgm^t^. they cast themselves upon, & of power with them, they swear & will dye in it, that 'tis a very good play: w^ch^ they would not have done if the poett himselfe had told them soe: As in a great schoole, tis not[2] the Master that teaches all, the Monitors doe a great deale of the worke, it may bee the boyes [are][3] afraid to see their[4] Master, so in a parish, 'tis not the Minister that does all, the greater Neighbour teaches the Lesser, the Master of the house teaches his servants &c.

16. ffirst in yo^r^. sermons use yo^r^. Logick & then yo^r^. Rhetorick. Rhetorick without Logick is like a tree with[5] leaves & blossomes, but no roote: yet I confess more are taken with Rhetorick then Logick, because they are catch'd with a free expression, when they understand not reason. Logick must bee naturall, or tis not att all, yo^r^. Rhetorick figures may bee learned. That Rhetorick is best, w^ch^ is most seasonable & most catching. An Instance wee have in that old blunt Comander att Cadiz who shew'd himself a good Orator: being to say something to his souldiers (w^ch^ hee was not us'd to doe) hee made them a speech to this purpose, What a shame will it bee to you English men that feed upon good beefe & brewes to lett those raskally spaniards beat you, that eate

[1] Our scribe (perhaps thinking of 'disseminate') wrote by an odd slip 'dissimate,' a *vox nihili*. [2] So R. V. om. [3] Supplied from V. [4] V. the. [5] So V. Our MS. has 'without,' a manifest error.

nothing but Oranges & Lemmons, And so putt more courage into his men then hee could have done with a more learn'd Oration. Rhetorick is either[1] very good or starke naught, there is no medium in Rhetorick. If I am not fully p[er]swaded I laugh att the Orator.

17. Ti's good to preach the same thing againe, for thats the way to have it learn'd. You see a Bird by often whistling to, learnes a Tune, & a month afterwards records it to her selfe.

18. T'is a hard Case a Minister should bee turn'd out of his living, for something they informe hee should say (*a*) in[2] pulpitt, Wee cann no more know what a Minister said in his sermon[3] by 2. or 3 words pick'd out of it, then wee cann tell what tune a Musitian plai'd last upon the lute, by two or three single Notes (*b*).

Predestination [fo. 63*b*]

1. Predestinacōn is halfe a Douzen Bulls (*c*) one upon another.

[More fully given in the additions, p. 147 below.]

2. They that talke nothing but p[re]destinacōn, & will not proceed in ther way to heaven, till they bee satisfyed in that

(*a*) Is believed to have said: common idiom down to 17th century, surviving in dialect, see O.E.D. *s.v.* Shall, s. 15. So in medieval Latin 'debuit venire' may mean either 'ought to have come' or 'is said to have come.'

(*b*) It is pleasing to have here a reminiscence of Selden's bringing up among musicians: not that the illustration is in itself out of the common, for some degree of skill in music was then rather expected as part of a liberal education, cp. Pepys's Diary, *passim*. A little later Roger North complained that music was becoming too technical for amateurs.

(*c*) Common in this sense in 17th century: the modern Irish association seems to be due to Miss Edgeworth, see O.E.D.

[1] So R. V. om. [2] V. ins. his.

[3] R. reports, but does not adopt, 'sermons' as the reading of the Harl. MSS., apparently a clerical slip in their proximate common ancestor.

point, doe as if a man would not come to London, unless att his first stepp hee might sett his foote upon the topp of pauls.

3. Doctor prideaux in his Lectures sev^er^all dayes us'd Argum^t^ to prove predestinacõn, att last tells his Auditors, they are damn'd if they doe not beleive it (*a*), doeing herein just as schoole boyes when one of them has gott an Apple, or something the rest have a mind to, they use all the Argum^t^s they can to gett some of it from him (I gave you some 'tother day, you shall have some with me another time): when they cannott p^re^vaile they tell him hee's a Jackanapes, a Rogue, & a Raskall.

Preferment

1. When you would have a Child goe to such a place, & you find him unwilling, you tell him hee shall ride a Cock-horse, & then hee will goe p^re^sently; soe doe those that governe the state deale by men to worke them to their Ends; they tell them they shall bee advanced to such or such a place, & then they will doe any thing they will have them.

2. A great place strangely qualifyes. John Read was ith' right (Groome of the Chamber to my Lord of Kent): Attorney Noy being dead, some were saying, how will the King doe for a fitt man? Why any man (sayes John Read) May execute the place. I warrant (sayes my Lord) thou think'st thou understand'st enough to p[er]forme it. John Read: Yes,[1] Lett the King make me Attorney & I would faine see that man, that durst tell me, theres any thing that I understand not.

3. When the pageants are a comeing, there's great thrusting

(*a*) It seems this is not just to Dr. Prideaux, see R.'s note. Can this passage have given Swift a hint for Lord Peter's immortal discourse in the *Tale of a Tub*?

[1] V. Yes, quoth John: probably a wilful scribe's emendation.

& rideing upon one anothers backs to looke out att Window: stay a while, & they will come just by you. You may see them quietly. Soe tis when a New state Officer[1] is chosen, there's great expectation & listening, who it should bee; stay but a while, & you may know quietly.

4. Missing preferm^{t}. makes the Presbiters fall foule upon the [fo. 64] Bishopps: men that are in hopes & in the way of riseing keep in the Channell, but they that have none seeke new wayes, Tis soe amongst Lawyers, hee that has the Judges eare will be very observant of y^{e} way of the Court, but hee that has no regard will bee flying out.

5. My Lord Digby haveing spoken something in the house of Comons, for w^{ch} they would have questioned him, was p^{re}sently call'd to the upper house (*a*). Hee did by the parliam^{t}. as an Ape when he has done some waggery, his Master spies him & lookes for his whipp, but before hee cann come att him, whipp sayes hee to the top of the house.

6. Some of the parliam^{t}. were discontented that they wanted places att Court w^{ch} others had gott, but when they once had them, then they were quiett Just as att a Christening, some that gett no sugar plums, when the rest have, muttur & grumble, presently the Wench comes againe with her baskett of sugar plums, & then they catch & scramble, & when they have gott y^{m} you heare no more of them.

Præmunire

There cann be no præmunire (*b*), A præmunire (so call'd from the words *præmunire facias*) was when a man laid his[2] accōn in an

(*a*) See R.'s note.

(*b*) Within the original Act creating the offence, see R.'s rather over-elaborate note. S.'s is more to the purpose.

[1] V. statesman or officer.

[2] V. an.

Ecclesiasticall Court for w^ch^ hee could have[1] remedy in any of the Kings Courts, that is, in the Courts of the Comon Law, by reason the Ecclesiasticall Courts before Hen: 8. were subordinate to the pope, & so it was *Contra Coronam & dignitatem Regis*. But now the Ecclesiasticall Courts are equally subordinate to the King, therefore it cannott bee *contra Coronam & Dignitatem Regis*, & so no præmunire.

Prerogative

1. Prerogative is something that cann bee told what it is, not something that has no name. Just as you see the Arch Bishopp has his prerogative Court, but wee knowe what is done in that Court, so the Kings prerogative [is][2] not his will, or what Divines make it, a power to doe what hee lists.

[fo. 64*b*] 2. The Kings Prerogative, that is the Kings Law. For Example, if you aske, if a patron may present to a living after six monthes by Lawe, I answ^er^ no, If you aske whether the King may, I answ^er^ the King may by his prerogative, that is by the Law, that concernes him in that Case.

Presbitery

1. They that would bring in a New Goverm^t^. would very faine p[er]swade us, they meet it in Antiquity, Thus they interprett presbiters, when they meet the word in the ffathers. Other professions likewise pretend to Antiquity; the Alchymist will find his Art in Virgills *Aureus Ramus*, & hee that delights in Opticks will find them in Tacitus; When Cæsar came into England, they would p[er]swade us they had perspective glasses by w^ch^ they[3] could discover what they were doing upon y^e^ land,

[1] So R. V. ins. 'no' against the sense.
[2] Supplied from V. [3] V. he.

because 'tis said *positis speculis*; the meaning is, his watch or his Sentinells discover'd this & this unto him (*a*).

2. presbiters have the greatest power of any Clergie in the World, & gull the Laytie most, ffor Example, Admitt there were .12. Laymen to .6. presbiters, the six shall governe the rest as they please, first because they are constant, & the other come in like Church wardens by their turnes w^{ch} is a huge advantage; men will give way to those that have been in place before them. Next, the Laymen have other professions to follow, the presbiters make it their sole business, & besides too, they learne & study the Art of perswading, Some of Geneva have confess'd as much.

3. The presbiter with his Elders about him is like a young tree fenc'd in[1] with three or foure stakes, the stakes defend it & hold it upp, but the tree only prospers & flourishes, it may bee some Willow stake may beare a leafe or two, but it comes to nothing. Lay Elders are y^{e} stakes, the presbiter the Tree y^{t} flourishes.

4. When the Quæres were sent to the Assembly concerning the Jus Divinum of presbitery (*b*), their askeing time to answ^{r}. them was a satyre upon themselves, for [if][2] it were to bee seene in the Text, they might quickly turne to the place & shew us it; their delaying to answ^{r} makes us thinke there's noe such matter[3] [fo. 65] there. They doe just as you have seene a fellow att a Taverne

(*a*) See R.'s learned note, giving quotations as to the alchemists and pointing out that the fancy about Julius Caesar is in Roger Bacon, but no such words as *positis speculis* can be found in any relevant Latin text. In any case Bacon seems to have confused *specula, f.*, an observation post, with *speculum, n.*, a mirror, and this must be the point of Selden's rather obscurely reported criticism. How the name of Tacitus came in does not appear.

(*b*) See R.'s note.

[1] V. about. [2] Supplied from V. [3] V. thing.

reckoning; when hee should come to pay his share hee putts his hand into his breeches, & keepes a grabling &[1] fumbling & shakeing, & att last tells you, hee has left his money att home: When all the Company knew att first, hee had noe money there, for every man cann quickly find his owne money.

Preists of Rome

1. The reason of the Statute ag[ains]t Preists (*a*) was this, In the beginning of Queene Eliz: there was a statute made, that hee that drew men from their civill obedience was a Traytor. Itt happened this was done in privacyes & Confessions, when their could bee noe proofe, therefore they made another Act, That for a preist to bee in England was Treason, because they presum'd that was his business here to fetch men of[f] from their allegience.

2. When Queen Eliz: dyed, & K James came in, an Irish preist does thus expresse it, *Elizabethâ in Orcum detrusâ, successit Jacobus alter Hæreticus.* You will aske why doe they use such language in their Church? *Ans*: Why does the Nurse tell the Child of Rawhead & bloudy bones to keep it in awe?

3. The Queene Mother (*b*) & Count Rosett[2] are to the preists & Jesuits like y[e] honey pott to the flyes.

4. The preists of Rome aime but att two things, & that is, to gett[3] power from the King & money from the Subject.

5. When the preists come into a family, they doe as a man that would sett fire on the house, hee does not putt the fire to the

(*a*) See R.'s note: the statement is not literally accurate, but sufficiently so for colloquial purposes.

(*b*) Mary de Medici: of Rosetti very little seems to be known: he was one of her retinue and said to have some mission from Rome.

[1] V. ins. a.

[2] V. Rosset: should be Rosetti.

[3] 'money' written here by mistake and cancelled.

Brick wall, but thrusts it into the thatch, they worke upon the women & lett the men alone.

6. For a preist to turne a man when hee lyes a dying, is just like one that has a long time sollicited a Woman & cannott obteine his End, at length makes her drunke & so lyes with her.

Prophesies

Dreames & prophesies doe this much good, they make a man goe on with boldness & Courage upon a Danger, or a Mistress. [fo. 65*b*] If hee obteine, hee attributes much to them; if hee miscarryes, he thinks no more of them, or is no more thought on himselfe.

Proverbes

The Proverbs of sev[er]all Nations were much studied by Bishopp Andrewes, & the reason hee gave was, because by them he knew the minds of sev[er]all Nations, w^{ch} is a brave thing: as wee Count him a Wise man that knowes the mindes & insides of men, w^{ch} is done by knowing what is habituall to them. Proverbs are habituall to a Nation, being transmitted from father to sonne.

Question

I (*a*) or noe, never answ^{er}ed any Question.

[See p. 147 below, in the supplemental entries, for the whole paragraph, in which this sentence is rather awkwardly inserted. I suspect that there should have been two distinct paragraphs.]

Reason

1. In giveing Reasons men comonly doe with us as the woman does wth. her Child; when she goes to Markett about her business,

(*a*) 'Aye' (preferred by O.E.D.) or 'Ay,' as we now write it, constantly appears as 'I' in 16th–17th century texts, and is found even later. Here the printed edd. give 'Ay.'

shee tells it shee goes to buy it a fine thing, to buy it a Cake or some plumes. They give us such reasons as they thinke wee will bee catch'd wth.all but never lett us knowe the truth.

2. When the Schoolemen talke of *Recta Ratio* in Moralls, either they understand Reason as 'tis govern'd by a Comand from above (*a*), or els they say no more then a woman, when shee sayes a thing is soe, because it is soe, that is, her reason p[er]swades her it is soe. The other Acception has sence in it: As, take a Law of the land, I must not depopulate; my reason tells me soe. Why? because if I doe, I incurr the detrement.

3. The reason of a thing is not to bee inquired after till you are sure the thing it selfe bee soe. Wee comonly are att (What's the reason of it?) before wee are sure of the thing. T'was an
[fo. 66] excellent question of my Lady Cotton, when S^{r}. Robert Cotton was magnifying of a shoe, w^{ch} was Moses's or Noahs, & Wondering att the strange shape & fashion of it: but, M^{r}. Cotton, sayes shee, are you sure 'tis a shooe.

Religion[1]

1. King James said to the ffly, have I three kingdomes & thou must needes fly into my Eyes[2]? is there not enough to

(*a*) The schoolman would answer: So it is, but not by an expressly revealed command; human reason is the gift of God, and the command is implicit therein and discoverable without aid of special revelation. St. German's account, in his *Doctor and Student*, of Reason as a fundamental element in our Common Law (which he expressly declares equivalent to the law of nature) must have been known to Selden, who seems here to ignore the analogy. It would be rash to say that no more considered opinion upon the matter is to be found anywhere in Selden's works, but I am not acquainted with any such.

[1] The old edd. place this title out of its proper alphabetical order, at the end of R. Reynolds put it right. [2] V. eye.

meddle withall upon the stage, or in law,[1] or att the table, besides religion ?

2. Religion amongst men appeares to me like the learning they gott att schoole ; some men forget all th[ey] learn'd,[2] others spend upon the stock & some improve it. So some men forgett all the Religion that was taught them when they were young, others spend upon that stock & some improve it.

3. Religion is like the fashion, one man weares his doublett slashed, another lac'd, a third plaine, but every man has a doublett (*a*). Every man has his Religion, wee differ about the trimming.

4. Men say they are of the same Religion for quietness sake, but if the mr̃e [matter] were well examined, you would scarce find three of the same Religion in all points.

5. Every Religion is a getting Religion, for tho' I my self gett nothing, yet I am subordinate to them that doe ; soe you may find a lawyer in y^e^ Temple that getts little for the present, but hee is fitting himselfe to bee in time one of those great ones that doe gett.

6. Alteration of Religion is dangerous, because wee know not where it will stay. Tis like a Milstone that lyes upon the Topp of a paire of Staires, 'tis hard to remove it, but if it once bee thrust of[f] the first staires, it never stayes till it come[3] to the bottome.

7. *Quest* Whether is the Church or Scripture Judge of Religion *Ans* : In truth neither, but the state. I am troubled with a Boyle, I call a Company of Chirurgions about me : One prescribes

(*a*) Here is another and even more palpable anticipation of Swift, *cp*. p. 110 above.

[1] V. love. The difference in 17th cent. cursive between 'law' and a rather cramped writing of 'loue' is minute. 'Law' seems the better reading ; the sense requires a matter of general and public discussion.

[2] R. om. they learned (seemingly a casual omission in a proximate ancestor of the Brit. Mus. MSS.)

[3] V. comes.

one thing, another another, I single out something I like, & aske you that stand by and are no Chirurgion what you thinke
[fo. 66b] of it, you like it too; You & I are the Judges of the plaister, & wee bidd ye Chirurgion[1] prepare it & there's an end. Thus 'tis in Religion. The protestants say, they will bee judged by the Scripture, the papists they say soe too, but they[2] cannott speake; a Judge is noe Judge except hee can both speake & comand execucōn, But the truth is they never intend to agree No doubt the Pope where hee is supreame is to bee Judge; if hee sayes wee in England ought to bee subject to him then hee must draw his sword & make it good.

8. By the Law was the Manuall (*a*) rec[eive]d in the Church before the Reformation, not by the Civill Law, that had nothing to doe with it; not by the C[an]on[3] law, for that Manuall wch was here was not in France nor in Spaine; but by Custome wch is the Comon law of England, and Custome is but the elder Brother to a parliamt.; & soe it will fall out to bee nothing, that the papists say, that ours is a parliamentary Religion by reason the service booke was established by Act of parliamt. & never any service booke was so before. That will bee nothing that the pope sent the Mannuall, 'twas ours because ye State rec[eive]d it. The State still makes the Religion & receives into it what will best agree with it. Why are the Venetians[4] Catholicks? because the State likes the Religion; all the world knowes they care not three pence for the Pope. The Councell of Trent is not admitted att this day in France.

9. *Papist,* Where was yor. Religion before Luther, a 100

(*a*) Service-book.

[1] Interlined.

[2] V. that (i.e. the Scripture cannot tell us which interpretation is right). But the sentence as a whole is at best not satisfactory, and I suspect something was omitted in the archetype.

[3] Corr. from R. Our scribe wrote 'comon,' an obvious slip.

[4] V. ins. Roman.

yeares agoe? *Protestant,* Where was America a hundred or six score yeares agoe? Our Religion was, where the rest of the Christian Church was. *Papist.* Our Religion continued ever since the Apostles & therefore 'tis the better. *Protest'.* So did ours. That there was an interruption in it will fall out to bee nothing; no more then if another Earle should tell one[1] of the Earles of Kent, hee is a Better Earle then hee, because there was one or two of the ffamily of Kent did not take the title upon them, yet all that while they were really Earles, & afterwards a great prince[2] declar'd y^m^ to bee Earles of Kent, as hee that made the other family an Earle.

10. Disputes in Religion will never bee ended because there [fo. 67] wants a Measure by w^ch^ the business should bee decided, the puritan would bee judg'd by the word of God (if hee would speake cleerly hee meanes himselfe, but that hee is asham'd to say soe) & hee would have me beleive him before a whole Church, that have read the word of God as well as hee. One sayes one thing & another another, & there is, I say, no measure to end the controversie. Tis just as if two men were att Bowles, & both Judg'd by the Eye: One sayes tis his Cast, the other sayes tis my cast, & haveing noe Measure the difference is eternall. Ben Johnson satyrically Exprest the vaine disputes of Divines by Inigo Lanthorne[3] disputeing w^th^. a puppett in[4] Bartholomew faire (*a*):

(*a*) This passage alludes to Act V, Sc. 3 of *Bartholomew Fair.* The Puritan Zeal-of-the-Land Busy, a merely burlesque character, who has already denounced puppets as idolatrous in Act III, Sc. 6, enters with the stage direction 'Rabbi Busy rushes in,' and interrupts the 'motion,' *i.e.* puppet-show, being given by the toyman Lanthorn

[1] So R. V. me.

[2] Singer printed 'as great a prince' without remark: seemingly his own conj.

[3] R. adopts 'Rabbi Busy' from Harl. MS. 1315; but this unique reading can only be a scribe's conjectural correction, otherwise it would be found in the closely allied MS. Harl. 690.

[4] V. ins. a, R. ins. his.

It is so, It is not soe ; It is soe, It is not soe, crying thus one to another a quarter of an houre together.

11. In matter of Religion to bee rul'd by one that writes ag[ains]t his Adversary & throwes all the dirt hee cann in his face is as if in point of good manners a man should bee govern'd by one whom hee sees att Cuffs with another, & thereupon thinke himselfe bound to give the next man hee meets a box on the Eare.

12. Tis[1] no purpose to labour to reconcile Religions when the interest of Princes will not sufferr it. Tis well if they could bee reconcil'd so farr that they should not cutt one anothers throotes.

13. There's all the reason in the world Divines should not bee suffered to goe a haires bredth beyond their bounds for fear of breeding Confusion, since there bee now so many Religions a foote. The matter was not so narrowly to bee look'd after when there was but One Religion in Christendome ; the rest would cry him downe for a heretick, & there was no body to side wth. him.

14. Wee looke after Religion as the Butcher did after his Knife when hee had it in his Mouth.

Leatherhead, supposed to be a travesty of Inigo Jones, and a controversy with ' puppet Dionysius ' follows, in which the lie is freely exchanged. The puppet's words are spoken by Leatherhead, who says earlier in the scene, ' I am the mouth of them all.' As Gifford observes in his note, ' Selden had a very imperfect recollection of this scene ' : the conversation may have been many years later than the printing (1631) not to say the production (1614) of Ben Jonson's play. As Gifford again says, no rational ground appears for the connexion of Leatherhead with Inigo Jones, yet Selden evidently thought there was something in it. As to our text, I find no reason to doubt it or suppose anything is lost (see the critical note), Gifford's explanation being both sufficient and probable. The satire seems to be directed wholly against ranting illiterate Puritans, but one must not seek too curiously for motives in broad farce.

[1] V. It is to : . .

15. Religion is made a Juglers paper, now 'tis a horse, now tis [fo. 67b] a Lanthorne, now 'tis a Boate, now 'tis a man. To serve Ends Religion is turn'd into all shapes.

16. Some mens pretending Religion is like roaring Boyes (*a*) way of challenges (their reputacon is Dear, it cannot stand with the honour of [a][1] Gentleman) when God knowes they have neither Reputacon nor honour about them.

17. Pretending Religion & the Law of God is to sett all things loose; when a man has no mind to doe something hee ought to doe by his contract w^th^. man, then hee getts a Text & interpretts it as hee pleases, & soe thinkes to gett loose.

[A paragraph omitted here will be found in the supplemental entries.]

18. If men should say they tooke Armes for any thing but Religion they might bee beaten out of it by reason, out of that they never cann for they will not beleive what ere you say.

19. The very Arcanum of pretending Religion in all Warrs is that something may bee found out, in w^ch^ all men may have interest; in this the Groome has as much interest as the Lord: were it for land, one has a 1000 acres, the other but one, hee would not venture so farr as hee that had a 1000; but Religion is equall to both: had all men Land alike by a Lex Agraria, then all men would say they fought for land.

Non: Residency

1. The people thought they had a great Victory over the Clergie, when in Hen: 8. time they gott their bill pass'd, that a Clergie: man should have but two Livings; before a man might

(*a*) See R.'s note.

[1] Supplied from V.

have .20. or 30. Twas but getting a[1] dispensation from the Popes Limiter or Gatherer of the Peter pence, w^ch^ was as Easily gott, as now you may have a Lycence for eating of[2] flesh.

2. Assoone as a Minister is made, hee hath power to preach all over the world, but the civill power restraines him, hee cannott preach in this parish, nor in that, there is one already appointed. Now if the state allowes him two livings, then hee has two places where hee may exercise his Function, & so has the more power to doe his office, w^ch^ hee might doe every where, if hee were not restrain'd (*a*).

[fo. 68]

Retaliation

(An Eye for an Eye & a Tooth for a Tooth): that does not meane that if I putt out another mans Eye, therefore I must loose one of my owne (for what is hee the better for that? tho' this bee comonly rec[eive]d) but it meanes that I shall give him whatt satisfaccōn an Eye shall bee judged to bee worth.

Revennue

[A blank here: the paragraph on Reverence, as it should be, is among the supplemental items *ad fin.*]

(*a*) It is not easy to see the point of this. Ordination, of course, confers no special licence to preach. A layman may preach with the consent of the Ordinary; moreover a lay M.A. might formerly be required to preach in the University church, as Selden must have known. As late as 1870 the receipt for composition of dues on taking the degree contained a formal release from this duty. Selden also knew that a man cannot be in two pulpits at once. His dictum looks like a hasty retort to some captious censor, peradventure as good as the censor deserved.

[1] Written by mistake and deleted before 'getting,' interlined here.
[2] V. to eat.

Sabboth (*a*)

Why should I thinke all the fourth Comandm^{t}. belongs to me, when all y^{e} 5th. does not? what land will the Lord give me for honouring my father? Itt was spoken to the Jewes with reference to the land of Canaan, but the meaning is, if I honour my parents, God will also bless me. Wee read the Comandments in the church service, as we doe Davids Psalmes, not that all concerne us, but a great deale of them.

Sacrament

Christ suffer'd Judas to take the Comunion. Those Ministers that keep their parishioners from it, because they will not doe what they would have them, Revenge rather than Reforme.

[Par. 2 is the last of the supplemental items in our MS.]

Salvation

Wee may best understand the meaning of *σωτηρία*, Salvation, from the Jewes, to whom the Saviour was promised. They held that themselves should have the Cheife place of happiness in the other world, but the Gentiles that were good men should likewise have their portion of bliss there too. Now by Christ the partition Wall is broken downe & the gentiles that beleive in him are admitted to the same place of bliss with the Jewes; And why then should not y^{t} portion of happiness still remaine to them who doe not beleive in Christ, so they bee morally good? This is a charitable Opinion.

(*a*) See R.'s note for the political history of the sabbatarian controversy. It will be observed that the alphabetical order of the titles beginning with S in our MS. is much better than that of the old printed editions. The title *State*, however, is relegated to the supplement.

Ship: Money

1. Mr. Noy (*a*) brought in shipp money, first for maritime
[fo. 68*b*] Townes but that was but like putting in a little Augur yt afterwards you may putt in a greater; hee that pulls downe the first brick does the maine worke, afterwards 'tis easy to pull downe the wall.

2. They that att first would not pay shipp: money till 'twas decided, did like brave men (though p[er]happs they did no good by the Tryall) but they that stand out since & suffer themselves to bee distrained, never questioning those that doe it, doe pittifully, for soe they only pay twice as much as they should.

[State, see p. 147.]

Symony

The name of (Symony) was begott in the Canon Law, The first Statute ag[ains]t it was in Queene Eliz: time. Since the Reformacōn Simony has bin frequent, One reason why it was not practis'd in time of popery was the pope's provisions, no man was sure to bestowe his owne benefice (*b*).

Subsidies

1. Heretofore the parliamt. was wary what subsidies they gave to ye King, because they had no Acct. But now they care not how much they give of the subjects money, because they give it with one hand & receive it with the other, & soe upon the matter (*c*) give it themselves.

In the meane time what a Case the subjects of England are

(*a*) King Charles I.'s Attorney-General.
(*b*) See R.'s notes.
(*c*) In point of fact.

in: if the men they have sent to the parliam^{t}. misbehave themselves they cannott help it, because the parliam^{t}. is eternall.

2. A subsidie was accounted the 5th. p[ar]te of a mans estate & soe 50 Subsidies is [five][1] and 40 times more then a man is Worth.

Superstition

1. They that are ag[ains]t superstition often times runn into it on the wrong side. If I will weare all Coullers but black, then I am sup[er]stitious in not wearing black.

2. They pretend not to abide the Crosse, because tis sup[er]stitious; for my p[ar]te I will beleive them when I see them throw away their money out of their pocketts & not till then (*a*).

3. If there bee any Sup[er]stition truly & properly so call'd, tis their observing the Sabboth after the Jewish manner.

Synod: Assembly (*b*) [fo. 69]

1. Wee have no nationall Synod since the Kingdome has binn settled as now it is, onely provinciall: & there will bee this inconvenience: To call so many Divines together will[2] bee to putt power into their hands who are to apt to usurpe it, as if the Laytye were bound by their determinacōns. Noe, lett the Laytie consult with[3] Divines on all sides, heare what they say & make themselves Masters of their reasons, as they doe by any other profession,

(*a*) The use of the cross as a device was continued in the Long Parliament's coinage.

(*b*) See R.'s notes on this title. Selden was a member of the 'Assembly of Divines' of 1643.

[1] So V. Our scribe made the obvious slip of writing 4.

[2] V. there . . . inconveniency to call . . . together, it will be . . . etc. Our scribe copied the text as if 'To call' began a new paragraph, wrote the figure 2 in the margin and struck it out.—In the first line of this par. V. reads 'we have had,' *qu.* a scribe's emendation.

[3] R. ins. the.

when they have a difference before them: for Example, Goldsmiths; they inquire of them, if such a Jewell bee of such a value, & such a stone of such a value, heare them, & then being rationall men, Judge themselves.

2. Why would ye have a Synod, when ye have a Convocation already, w^{ch} is a Synod? would you have a superfetation of another Synod? The Clergie of England when they cast off the pope, submitted themselves to the civill power & soe have continued. But these challenge to bee *Jure divino*, & so to bee above the civill power, These challenge power to call before their presbiterys all p[er]sons for all sinnes directly ag[ains]t the Law of God as[1] prov'd to bee sinns by necessary Consequence (*a*). If you would buy Gloves send for a Glover or two, not Glovers hall; consult with some Divines, not send for a Body.

3. There must bee some Laymen in the Synod to overlooke y^{e} Clergie least they spoile the Civill worke, just as when the good woman putts a Catt into the Milkhouse to kill a mouse, she sends her maid to looke after the Catt, least the Catt should eate upp the Creame.

4. In the ordinance for the Assembly the Lords & Comons goe under the names of learned godly & Judicious Divines, there is noe difference putt betwixt them & the Ministers in the Context.

5. Tis not unusuall in the Assembly to revoke their votes by reason they make such hast, but 'tis that will make them scorn'd.

(*a*) So all copies, but there appears to be something wrong with the text; for the sense required is that the Presbyterians claim spiritual jurisdiction not only over manifest sins but over anything they can make out to be a sin by consequential argument from any divine ordinance.—There is a curious example in the Shorter Catechism, where slackness in making the best of one's own worldly estate is said to be a constructive breach of the eighth Commandment.

[1] It is tempting to conjecture 'or,' which would serve (see note *a* above): but I suspect an omission of several words in the archetype.

You never heard of a Councell (*a*) revok'd an Act of its owne makeing: they have been wary in that to keep upp their infallibility; if they did any thing they tooke away the whole Councell, And Yet wee would bee thought as infallible as any body, Tis not [fo. 69*b*] enough to say the House of Comons revokes their votes, for theires are but Civill Truths, w^ch^ they by Agreem^t^. create & uncreate as they please, but the truths the synod deales in are Divine, & when they have voted a thing, if it bee then true, 'twas true before, not true because they voted it, nor does it cease to be true because they vote it otherwise.

6. Subscribing in a Synod or to the Articles of a Synod is no such terrible thing as they make it, because if I am of a Synod tis agreed, either tacitely or expressly, that w^ch^ the Major p[ar]te determines the rest are involv'd in; & therefore I subscribe though my owne private opinion[1] bee otherwise: And upon the same ground I may without scruple subscribe to what those have determin'd whom I sent, though my private opinion bee otherwise haveing respect to that w^ch^ is the ground of all Assemblyes, the Major p[ar]te carry's it.

Thanks=giveing

Att first wee give thanks for every Victory assoone as ever twas obtein'd, but since wee have had many, now wee cann stay a good while. Wee are just like a Child; give him a plum, hee makes a Legg, give him a second plum, hee makes another legg; att last when his belly is full hee forgetts what hee ought to doe, then his Nurse or some body else that stands by must putt him in mind of his duty (where's yo^r^. Legg ?)

(*a*) That is, a General Council of the Church.

[1] Interlined over a deleted word which seems to be 'occasion.'

Tythes (*a*)

1. Tythes are more paid in kind in England then in all Italy & France In France they have had Impropriations a long time, wee had none in England till Hen : 8 :

2. To make an Impropriacōn, there was to bee the consent of the Incumbent, the patron & the King, & then twas confirmed by the Pope : without all this the Pope could make noe Impropriacōn.

3. Or what if the pope had given the Tythes to any man, must they therefore bee taken away ? If the Pope gives me a Jewell, will you therefore take it from me ?

[fo. 70] 4. Abraham paid Tythes to Melchisedek, what then ? twas very well done of him, it does not follow therefore that I must pay Tythes, no more then I am bound to imitate any other action of Abraham.

5. Tis ridiculous to say, the Tythes are Gods p[ar]te[1] & therefore the Clergie must have them ; why, so they are, if the Layman has them. Tis as if one of my[2] Lady Kents maides should bee sweeping this roome, & another of them should come, & take away the Broome & tell her for a reason why shee should part with it, Tis my Ladyes Broome : as if it were not my Lady's broome, w^{ch} of them soever had it.

6. They consulted in Oxford where they might find the best argum^{t}.s for their Tythes, setting aside the *Jus Divinum*. They were advis'd to my history of Tythes, a Booke so much cry'd downe by them formerly (in w^{ch} I dare boldly say there are more Argum^{t}s for them, then are Extant together any where). Upon this one (*b*) writt me word, that my history of Tythes was now

(*a*) See R.'s notes with extracts from Selden's book, etc.

(*b*) The Provost of Queen's, 22 Aug. 1653, see R.'s note : this was in the last year of Selden's life, so the present saying is pretty closely dated.

[1] Interlined. [2] Repeated by mistake and deleted.

become like Peleus's [*corr. Pelias*][1] *Hasta* to wound & to heale (*a*). I told him in my Answ^er^, I thought I could fitt him with a better instance, Twas possible it might undergo the same fate, that Aristotle, Avicen & Averroes did in France some 500 yeares agoe, w^ch^ were excommunicated by Stephen (*b*) Bishopp of Paris (by that very name Excommunicated) because that kind of learning puzled & troubled their Divinity, But finding themselves att a losse some 40. yeares after (w^ch^ is much about the time since[1] I writt my history) they were called in againe & so have continued ever since.

Trade

1. There is no prince in Christendome, but is directly a Tradesman tho' in an other way then an ordinary Tradesman. For the purpose, I have a man, I bidd him lay out 20^s^. in such a Comoditye, but I tell him for every shilling hee layes out I will have a penny : I trade as well as hee, this every Prince does in his Customes.

2. That w^ch^ a man is bread upp in, hee thinkes no cheating ; as yo^r^. Tradesman thinks not soe of his profession, but calls it a [fo. 70*b*]

(*a*) The allusion is to Ovid, *Remed. Am.* 47 : Vulnus in Herculeo quae quondam fecerat hoste Vulneris auxilium Pelias hasta tulit. 'Pelias hasta' is the spear of Achilles, made of wood from Mt. Pelion. 'Telephus could only be cured by the spear which had inflicted the wound' (Irving's note, see there further references to the story).

(*b*) See R.'s note. Bishop Stephen's part was in a later censure, which was only a condemnation of a particular Aristotelian doctrine. As both incidents are distinctly and separately referred to by Selden in his published work, it is difficult to suppose that his memory was in fault, and we may follow R. in ascribing the mistake to Milward. The number 500 is also a blunder.

[1] This blunder is apparently in all MSS. as well as in ed. pr., so it must have been in the archetype, whether due to Milward or (let us hope) to the scribe of his fair copy. The correction was made in W., presumably by a skilled press reader (not Wilkins himself, see the Introduction, p. xiii above), and is given in the modern printed texts. [2] Interlined.

Mystery (*a*) : Whereas if you would teach a Mercer some other way to make his silkes heavy then what hee has binn us'd to, hee would peradventure thinke that to bee cheating.

3. Every Tradesman professes to cheate me, that asks for his Comodity twice as much as 'tis worth.

Tradition

Say what they[1] will ag[ains]t Tradition, wee know the Significacō̃n of words by nothing but Tradition. You will say the scripture was writt by the holy Spirit ; But doe you understand that language twas writt in ? noe. Then for Example, take those words, (*in principio erat verbum*) how do you know those signifie (In the beginning was the word) but by Tradition, because some body has told you soe ?

Transubstantiation

1. The ffathers useing to speake Rhetorically brought upp Transubstantiation, as if because 'tis comonly said (*Amicus est alter idem*) one should goe about to prove, that a man & his freinds is[2] all one. That opinion is only Rhetorick turn'd into Logick.

2. There is no greater Argum[t]. (tho' not us'd) ag[ains]t Transubstantiacō̃n then the Apostles att their first Councell forbidding blood and suffocation : would they forbidd blood & yet enjoine the Eating of blood too ?

[For par. 3 see the supplementary items *ad fin.*]

(*a*) This word should be written *mistery*, as it was in the 15th century, being derived from the Lat. *ministerium* (*cp.* the French equivalent *métier*), not *mysterium* ; the two words were, however, confused as early as the 16th century. Selden may or may not have known this.

[1] V. you. [2] V. are.

Traytor

Tis not seasonable to call a man Traytor that[1] has an Army att his heeles; one with an Army is a gallant man. My Lady Cotton was in the right when she laugh'd att the Dutchess of Richmond for takeing such state upon her, when shee could comand no forces (Shee a Dutchess, there's in fflanders a Dutchess indeed, [fo. 71] a Dutchess with an Army[2]), meaning the Arch-Dutchess.

Trinity

The second p[er]son is made of a peece of bread by the papist, The Third p[er]son is made of his owne ffrenzie, malice, ignorance & folly by the Roundhead (to all these the spiritt is intitled) (*a*) One the Baker makes, the other the Cobler, & betwixt these two, I thinke the first person is sufficiently abused.

Truth

1. The Aristotlelians [*sic*] say, All truth is conteined in Aristotle, in one place or other; Galileo makes Simplicius say soe (*b*), but shewes the Obsurdity of that speech, by answering, That all truth is conteined in a lesser Compass viz[t]. in the Alphabett. Aristotle is not blam'd for mistakeing sometimes, but the Aristotlelians for maintaineing those mistakes. They should acknowledge the good they have from him & leave him when hee is in the wronge. There never breath'd that p[er]son to whom mankind was more beholding.[3]

2. The way to find out the truth is by others mistakeings, for

(*a*) The Roundhead foists them on the Spirit.
(*b*) See R.'s note.

[1] R. who.
[2] V. om. a duchess with an army: the restoration of these words, though not strictly necessary, improves the sense.
[3] V. beholden.

if I was to goe to such a place & one had gone before me on the right hand & hee was out, another had gone on the left hand & hee was out, this would direct me to keep the middle way, that peradventure would bring me to the place. I entended to goe.

3. In troubled water you cann scarce see yo^{r}. face, or see it very little till the water bee quiett & stand still; so in troubled times you cann see little truth, when times are quiett & settled then truth appeares.

Tryalls

1. Tryalls are one of these three wayes, by confession or by Demurrer that is, Confessing the ffact, but denying it to bee that wherewith a man is charg'd, for Example, denying it to bee Treason, if a man be charged with Treason, or by a Jury (*a*).

2. Ordalium was a Tryall, & was either by goeing over 9 red
[fo. 71*b*] hott Plow Sheares (as in the Case of Queen Emme accus'd for lying wth. the Bishopp of Winchester, over w^{ch}. shee being ledd blindfold & haveing past all her Irons ask'd when shee should come to her tryall) (*b*) Or 'twas by takeing a Redd hott Coulter in a mans hand & carrying it so many stepps & then casting it from him. Assoone as this was done, the feete or the hands were to bee bound upp, and certaine Charmes to bee said, & a day or

(*a*) This (if correctly reported) seems to represent the least rough approximation to accuracy that Selden thought Milward capable of understanding. But I doubt whether he could have talked of demurrer to an indictment for treason as if it occurred in practice; and he very well knew that even in courts of Common Law (not to mention other jurisdictions in which there was no jury) there were other procedures in certain cases. Even if he spoke only of criminal law, I am apt to think Milward blundered.

(*b*) This story is a mere fable, see Freeman *N.C.* ii. 569. It is odd that Reynolds treats it as historical. His note on ordeal in general is well enough except for ignoring the English documents.

two after to bee opened. If the parts were hole, the party was judged to bee innocent, and soe on the contrary.

3. The Racke is us'd no where as[1] in England. In other Countries tis us'd in Judicature, when there is *semi-plena probatio*, a halfe proofe ag[ains]t a man, then to see if they cann make it full, the[y] racke him to try if hee will Confess. But here in England, they take a man & rack him I doe not know why, nor when, not in time of Judicature, but when some body bidds (*a*).

4. Some men before they come to their tryall are cousen'd to confesse upon Examination by this Trick, they are made to beleive somebody has confess'd before them, & then they thinke it a peece of honour to bee clear & ingenious (*b*) & that destroyes them.

University

1. The best argumt. why Oxford should have preceedence of Cambridge is the Act of Parliamt. by wch Oxford is made a body,

(*a*) There was no rule just because torture was no part of regular legal process, but an extra-judicial exercise (or rather abuse) of the King's undefined executive power. The lack of any allusion to the judges' answer in Felton's case in 1628 that 'no such punishment is known or allowed by our law' (the only answer they could give, being formally asked) suggests for the date of this saying just the time when that case was pending and the matter still in doubt. Apparently this was some years before Milward became Selden's secretary: but presumably they had met earlier, and for all we know the Table Talk may include a few reports gathered from other persons. As to 'somebody bids,' it was always a royal order, and almost always made in the Privy Council. Jardine's Reading (1837) is still classical; for an accurate summary statement, see S. R. Gardiner, *Hist. of England*, ed. 1891, vi. 359.

(*b*) For 'ingenuous,' a common confusion already noticed.

[1] In our MS. 'as' is by mistake misplaced after 'England,' making nonsense: the right order is restored from V.

made what it is, & Cambridge is made what it is, & in that Act it takes place Besides Oxford has the best Monum[en]^{ts}. to shew (*a*).

2. Twas well said of one hearing of a history Lecture to bee founded in the Universitye : would to God, sayes hee, they would direct[1] a Lecture of discretion there, this would doe more good a hundred times.

3. Hee that comes from the University to governe the state before hee is acquainted with the men & manners of the place, does just as if hee should come into y^{e} presence all dirty with his bootes & his rideing Coate & his hatt all dawb'd ; they may serve
[fo. 72] well enough upon[2] the way, but when hee comes to Court, hee must conforme to the place.

Vowes (*b*)

Quest. suppose a man find by his owne Inclination hee has no mind to marry, may hee not then vowe Chastity ? *Ans* : If hee does, thinke what a fine thing he has done ; 'tis as if a man did not love Cheese, & then hee would vow to God Almighty never to Eate Cheese. Hee that vowes cann mean[3] no more in sence, then this, to doe his uttmost endeavour to keep his vow.

(*a*) The Act referred to is 13 Eliz. c. 29. The question of precedence was discussed in the House of Commons early in 1641, see R.'s note. No doubt is now entertained that Oxford is the more ancient university, though not by very much. What Selden meant to include in ' the best monuments ' is not clear.

(*b*) There is no mistake in the original alphabetical arrangement : U and V are treated as one letter, a practice which continued well into the 18th century.

[1] So ed. pr. W. and R. erect : which looks like a hasty conjectural emendation. [2] V. in. [3] Corr. from ' doe ' in MS.

Vsury

1. The Jewes were forbidden to take use one of another, but they were not forbidden to take it of other Nations: that being soe, I see no Reason why I may not as well take use for my money as Rent for my house. Tis a vaine thing to say money begetts not money, for that no doubt it does.

2. Would [it][1] not looke odly to a stranger that should come into this land & heare in our pulpitts usury preach'd ag[ains]t? & yet the Law allowes it, many men use it p[er]happs some Churchmen themselves; no Bishopp nor Ecclesiasticall Judge y[t] pretends power to punish other faults dares punish, or att least does punish any man for doeing it.

Pious Uses

The ground of the ordinary's takeing p[ar]te of mans Estate (who dyed without a Will) to pious uses, was this, To give it some body to pray that his soule might bee delivered out of purgatory. Now the pious uses come into his owne pockett. Twas well expressd by John Ô[2] poules in the play (*a*), who acted the preist: One that was to bee hanged being brought to the Ladder, would faine have given something to the poor: he feeles for his purse[3] (w[ch] John Ôpoules had picked out of his pockett a little before) missing it cryes out hee was undone, hee had lost his purse, now hee intended to give[4] something to the poor; John Ôpoules bids him bee pacifyed, the poore had it already.

(*a*) See quotation from Marston in R.'s note.

[1] Restored from V. Our MS. has 'I' by an obvious slip.
[2] This peculiar notation appears also in W. Other edd. print o Powls or o' Pouls.
[3] he . . . purse, interlined.
[4] R. have given.

[fo. 72*b*] WARR

1. Doe not undervalue an Enemy by whom you have been worsted. When our Countrymen come home from fighting ag[ains]t the Saracens & were beaten by them, they pictur'd them with huge bigg terrible faces (as you see still the Signe of the Saracens head is) when in truth they were like other men, but this they did to save their owne creditts.

2. Martiall Law in Gen[er]all meanes nothing but the Martiall Law of this or that place. With us, tis to bee us'd *in fervore belli,* in the face of an Enemy ; not in time of peace, then they cann neither take away lymne nor life (*a*). The Comanders need not complaine for want of it, because our Ancestors have done gallant[1] things without it.

3. *Quest*^{n} Whether may subjects take upp Armes ag[ains]t their prince.

Answ^{er}. Conceive it thus, here lyes a shilling betwixt you & mee, tenn pence of this shilling is yours, two pence is mine by Agreem^{t}. : I am as much the King of my two pence as you are of yo^{r}. ten pence. If you therefore goe about to take away my 2 pence[2] I will defend it, for there you & I are equall, both princes.

4. Or thus: Two supreame princes meet, one sayes to the other, give me yo^{r}. Land, if you will not I will take it from you, The other because hee thinks himselfe too weeke to resist him, tells him Of nine p[ar]ts I will give you three, so I may quietly enjoy the rest, & I will become yo^{r}. Tributary ; upon this they agree. Afterwards the prince comes to exact six p[ar]ts & leaves

(*a*) The reference is to one of the points of the Petition of Right, see R.'s note. This is not the place to speak of later controversy, which cannot even now be said to be finally settled.

[1] Corr. from 'brave.' [2] The sentence to this point interlined.

but three; the Contract then is broken, & they are in parity againe.

5. To know what obedience is due to the prince you must looke into y^e^ contract betwixt him & his people, as if you would know what Rent is due to the Landlord from the Tenant, You must looke into the Lease. Where the Contract is broken, & there is no Third p[er]son to judge, then the division[1] is by Armes, & this is the Case betwixt the prince & the subject.

6. *Quest.* What Law is there to take upp Armes against the prince in Case hee breakes his Covenant?

Answ^er^. Though there bee no written Law for it yet there [fo. 73] is Custome w^ch^ is the best Law of the Kingdome; for in England they have allwayes done it. There is nothing express'd betwixt the King of England & the King of France, that if either invade the others territory, the other shall take upp Armes ag[ains]t him, & yet they doe it upon such an occasion (*a*).

7. Tis all one to bee plundered by a Troope of horse, or to have a mans goods taken from him by an order from the Councell Table; to him that dyes tis all one, whether it bee by a penny halter, or a silken[2] Garter, Yet I confesse the silke Garter pleases more, & like Trouts wee love to bee Tickled to death.

8. The Souldiers say they fight for honour, when the Truth

(*a*) Selden's doctrine of the Social Contract appears on the whole to anticipate Locke's in essentials, but his discontinuous utterances are not easy to reduce to formal consistency. If custom is the best law of the kingdom, what becomes of contract as the supreme authority short of a positive revelation? Does *fides est servanda* include obedience to custom? The answer seems to be that custom is regarded as being itself a kind of tacit agreement: a view for which modern authority is not wanting in the field of international law.

[1] Our scribe seems to have hesitated between this and 'decision,' and what he actually left written is more like 'dicision' than either real word. V. decision.

[2] 'halter' repeated by mistake and struck out.

is they have their honour in their pockett. And they meane the same thing that pretend to fight for Religion, Just as a Parson goes to Law with his Parishioners, hee sayes for the good of his successor that the Church may not loose its right, when his meaning is to gett the Tythe into his owne pockett.

9. Wee governe this Warr as an Unskillfull man does a Casting Nett: if hee has not the right trick to cast the Nett of[f][1] his shoulder, the Leads will pull him into the River; I am afraid, wee shall pull ourselves into destruccōn.

10. Wee looke after the p[ar]ticulers of a battell, because wee live in the very time of the Warr; whereas of Battells past wee heare nothing but the Number slaine: Just so for the death of a man, when hee is sick, wee talke how hee slept this Night & that Night, what hee Eate, & what hee dranke, & when hee is dead wee only say hee dyed of a ffeaver, or name his desease & theres an end.

11. Boccalline (*a*) has this passage att souldiers. They came to Apollo, to have their profession made the Eight[h] liberall science, w^{ch} hee granted, As soon as 'twas noysed upp & downe in came the Butchers & they desired their profession might bee made the Ninth, For say they, the souldiers have this honour for killing of men, now wee kill as well as they, but wee kill beasts for the preserving of men, & why should not wee likewise have honour done to us? Apollo could not answ^{er} their reason, so hee reversed[2] his sentence, & made the Souldiers trade only[3] a Mistery as the Butchers is.

(*a*) Boccalini, Advertisements from Parnassus, see R.'s note. The first resolution was 'that military men in their exercise of war might use the honourable names of science and discipline,' not that war should be added to the seven liberal arts: Selden's variation, however, is in itself rather an improvement of the apologue.

[1] R. off of.

[2] Our scribe first wrote 'reserved' and then corrected the *s* but forgot the *v*.

[3] V. om.

Wife

[fo. 73*b*]

1. Hee that has a handsome wife by other men is thought happy, tis a pleasure to looke upon her & bee in her Company; but the husband is cloy'd with her, Wee are never content with what wee have.

2. You shall have[1] a Monkey sometime that has been playing Upp & downe the garden att length leap upp to the Topp of the Wall, but his Clogg hangs a great way below on his[2] side. The Bishopps wife is like that Monkeys Clog, himself is gott upp very high, takes place of the Temporall Barons, but his wife comes a great way behind.

3. Tis reason, a man that will have a wife should bee att[3] the charge of all her Trinketts & pay all the scores she setts him on; hee that will keep a Monkey tis fitt hee should pay for the glasses she[4] breakes.

Wisdome

1. A wise man should never resolve upon any thing, att least never lett the World know his resolution, for if hee cannott arrive att that hee is asham'd. How many things did the King resolve in his declaracõn concerning Scotland never to doe, & yet did them all? A man must doe according to Accidents & Emergencyes.

2. Never tell yo[r]. resolution before hand, but when the Cast is throwne play it as well as you cann to winn the game you are att. Tis but folly to study how to play size Ace, when you knowe not whether you shall throw it or noe.

3. Wisemen say nothing in dangerous times. The Lyon you knowe call'd the sheep to aske her if his breath smelt; shee said

[1] V. see. [2] V. this: 'his side' = the side he came from.
[3] Interlined. [4] So R. V. he.

Yes[1]: hee bitt of her head for a foole. Hee call'd the Wolfe & asked him; hee said Noe; hee tore him in peeces for a flatterer. Att last hee called the ffox, and ask'd him: why,[2] hee had gott a cold and could not smell. K. James was pictur'd &c. (*a*)

Witches

The Law ag[ains]t Witches does not prove that there bee any, but it punishes the malice of those people, that use such meanes to take away mens lives. If one should profess that hee [fo. 74] could by turning his hatt thrice & crying Buz! take away a mans life (though in truth hee could doe nothing) yet this were a just Law made by the State, That whosoever shall turne his hatt thrice and cry Buz! with an Intention to take away a mans life, shall bee putt to Death (*b*).

Witt

1. Witt & Wisdome differr. Witt is upon the sudden turne, Wisdome is in bringing about Ends.

2. Nature must bee the ground worke of Witt & Art, otherwise whatever is done will prove but Jack pudding worke.

3. Witt must grow like fingers; if it bee taken from others, tis like plums stuck upon Blackthorne, there they are for a while, but they come to nothing.

(*a*) Does this &c. stand for a description of some libellous print, which Milward did not think it safe to write down? One would rather have expected some allegorical illustration of King James's prudence; in that case it might be supposed that Milward meant to verify the particulars but never did so.

(*b*) It seems rather idle to discuss this saying and the various distinctions that might be noted on it without knowing whether it represents a serious opinion or a conversational paradox.

[1] MS. shows hesitation between 'Yes' and 'Ay,' the common reading, written 'I' in the Brit. Mus. MSS. [2] V. truly.

4. Hee that will give himself to all manner of wayes to gett money may bee rich; so hee that will lett fly all hee knowes or thinks, may by Chance bee scarcastically[1] witty, Honesty sometimes keeps men from being rich & Civility from being witty.

5. Women ought not to know their owne witt, because then they will still bee shewing, & so spoile it, like a Child that will bee continually shewing[2] its fine New Coate, till att length it all bedaubes it with paw[3] hands.

6. Fine Witts destroy themselves with their owne plotts in medling with great affaires of State; they comonly doe As the Ape that saw the Gunner putt bullets in the Canon & was pleas'd with it & hee would bee doeing soe to[o], att last hee putt himselfe into the peece, & so both Ape & Bullett were shott away together.

Women

1. (Lett the woman have Covering on her head because of the Angells): the reason of the Words (because of the Angells) is this, the Greek Church held an Opinion that the Angells fell in love with women (*a*) this fancy S[t] paul discreetly catches & uses it as an Argum[t]. to p[er]swade them to Modesty.

2. The Grant of a place is not good by the Canon Law before a Man bee dead. Upon this ground, least some mischeife might bee plotted ag[ains]t him in present poss[ess]ion by poysoning or some other way. Upon the same reason a Contract made with a Woman in time of her husband[4] was not valid. [fo. 74*b*]

(*a*) [See p. 148, below, for the reference to the Book of Genesis given by V. at the end of this title, and inserted in this its proper place by S. and R.]

[1] *Sic.* R. sarcastically, V. satyrically.
[2] Interlined.
[3] V. its pah, W. his pah.
[4] V. during her husband's life: which looks like a scribe's wilful alteration.

3. Men are not troubled to heare a man disprais'd, because they know, tho' hee bee naught, there is worth in others; but Women are mightily troubled to heare any one of them spoken ag[ains]t, as if the sex itselfe were guiltie of some unworthiness.

4. Women & princes must both trust somebody, & they are happy or unhappy according to the desert of those into[1] whose hands they fall. If a man knowes how to manage the favour of a Lady, her honour is safe, & so is a princes.

Yeare

1. Twas the manner of the Jewes, (if the yeare did not fall out right, but that it was dirty for the people to come upp to Jerusalem att the ffeast of the passoever, or that their corne was not ripe for their first fruits) to intercalate a Month, & so to have as it were two ffebruaryes, thrusting upp the yeare still higher, March into Aprills place, Aprill into Mayes place &c, whereupon tis impossible for us to know exactly[2] when our Saviour was borne or when hee dyed (*a*).

2. The yeare is either the yeare of the Moone, or the yeare of the Sunn, there is not above 11 dayes difference, our moveable ffeasts are according to the yeare of the Moone, else they should bee fixed.

3. Though they reckon tenn dayes sooner beyond sea, yet it does not follow their Spring is sooner then ours, Wee keep

(*a*) Selden expressed an opinion like this in his History of Tithes, but afterwards retracted or qualified this and other matters which had displeased King James I. in a series of short tracts dedicated to the King, which may be seen in the last volume of his works, ed. Wilkins.

[1] V. under.

[2] This not unimportant word is omitted in V.

the same time in Naturall things, & their 10. dayes sooner, & our 10. dayes later in these things meane the selfe same time, just as twelve sous in French are 10. pence in English.

4. The lengthening of the dayes is not suddenly perceived till [fo. 75] they are growne to[1] a pretty deale longer, because the Sunn, tho'. it bee in a Circle, yet it seemes for a while to goe in a right line ; ffor take a segment of a great Circle especially, & you shall doubt whether it bee not[2] straight or noe. But when the sunn is gott past that Lyne, then you presently p[er]ceive the dayes are lengthened : thus it is in the Winter & summer Solstice, w^{ch} is indeed the true reason of them (*a*).

5. The Eclypse of the sunn[3] is when 'tis New Moon, The Eclypse of y^{e} Moone is when 'tis full. They say S^{t}. Dyonysius was converted att the Eclypse that happened att our Saviours

(*a*) R.'s note finds the sense not clear : it seems therefore worth while to quote a sentence from Beckett (Lord Grimthorpe) *Astronomy without Mathematics*, ed. 6, p. 62 : ' Midsummer and midwinter are called the *solstices*, because the sun then stays at the same distance from the equator for a few days, as you may see by looking at the ecliptic on a globe where it is farthest from the equator ; and the days remain of the same length for a short time before they begin slowly to get shorter or longer again.' A more technical but still simple account is given in a good Cambridge text-book, *Godfray on Astronomy*, 1866, p. 95 ; describing the apparent path of the sun at midsummer : ' For several days before and after the maximum [meridian altitude], the change of declination will be very slight, and during this time there will be no perceptible change in the diurnal path :—to the eye, he will rise at the same point of the horizon, reach the same meridian altitude, and set at the same point. Hence the term *solstice* applied to this period of the year. . . .' Selden was accordingly right enough ; and it is rather strange that Reynolds, being as he was a meritorious student of Dante, who had plane astronomy at his fingers' ends, should have been puzzled.

[1] V. om. [2] V. om. MS. Harl. 1315 (ap. R.) agrees with ours.
[3] Interlined over a deletion.

death, because it was neither of these, & so could not bee naturall (*a*).

Zelotts

One would wonder Christ should whipp the Buyers & Sellers out of y^e^ Temple & noe body offerr to resist him (considering what opinion they had of him) but the reason was they had a Lawe, That whosoever did prophane *Sanctitatem Dei aut Templi*, the holiness of God or the Temple, before Tenn p[er]sons, twas lawfull for any of them to kill him, or to doe any thing on this side killing him, as whipping him or the like: And hence it was that when one strook our Saviour before the Judge (where it was not lawfull to strike as it is not with us att this day) hee only replyes: If I have spoken evill, beare wittness of the Evill, but if well why smitest thou me? Hee sayes nothing ag[ains]t their smiteing him, in case hee had binn guilty of Speaking evill, that is Blasphemy, & they could have proved it ag[ains]t him, They that putt this law in Execution were called Zelotts, but afterwards they comitted many Villanies.

Finis.

[The following supplementary paragraphs were presumably found on misplaced loose leaves of Milward's original copy, and collected without method in the archetype of our existing MSS. In the printed editions they are restored to their proper places or nearly so.]

Predestination

[To p. 109 above]

For a young Divine to beginn in the pulpitt w^th^ predestinacōn is as if a man were comeing into London & att his first stepp should thinke to sett his foote upon the Topp of paules.

(*a*) See R.'s note.

Devills

[fo. 75b]

[To p. 41 above]

A person of quality came to my Chamber in the Temple & told me hee had two Devills in his head (I wonder'd what hee meant) & just att that time one of them bidd him kill me (with that I begann to bee afraid, thought him to be madd) hee said hee knew I could cure him, & therefore intreated me to give him something, for hee was resolv'd hee would goe to no body else. I p[er]ceiveing what an opinion hee had of me, & that 'twas only Meloncholly that troubled him, tooke him in hand, & warranted him, if hee would follow my direccōns to cure him in a short time; I desired him but to lett me bee alone for an houre & then to come againe, w^ch hee was very willing to. In the meane time I gott a Card and lap'd it upp handsomely[1] in a peece of Taffaty, & putt strings to the Taffaty, & when hee came gave it him to hang about his Neck, withall charged him that hee should not disorder himself neither with eating nor drinking, but eate very little of supper & say his prayers duely when hee went to bedd & I made no question but hee would bee well in three or foure dayes.

Within w^ch[2] time I went to Dinner to his house & ask'd him how he did, hee said hee was much better, but not p[er]fectly well, for[3] in truth hee had not dealt clearly with me: hee had foure Devills in his head, & hee p[er]ceived two of them were gone with that w^ch I had given him, but the other two troubled him still: well, said I, I am glad to hear two of them are gone, I make no doubt but to gett away the other two likewise, so I gave him another thing to hang about his Neck.

Three dayes after hee came to me to my Chamber, & professed hee was now as well as ever hee was in his life, & did extreamly thanke me for the great care I had taken of him.

[1] So R. V. handsome. [2] V. that. [3] So R. V. or.

[fo. 76] I fearing he might relapse into the like distemper told him, that there was none but my selfe & one phisitian more in the whole Towne that could cure the Devills in the head, & that was Doctor Harvey (whom I had prepared) & wished him, if ever hee found himselfe ill in my absence, to goe to him, for hee could cure the desease as well as my selfe. The Gentleman lived many yeares & was never troubled after (*a*).

Oathes

[To p. 87 above]

[7.] When men aske whether they may take it in their owne sence, 'tis to me, as if they should aske whether they may goe to such a place with their owne leggs. I would feine know how they cann goe otherwise.

[8.] If the Ministers that are in sequestred livings will not take y^e^ Engagem^t^., threaten to turne them out & putt in the old Ones, & then I warrant you they will quickly take it. A Gentleman haveing been rambling two or three dayes att length came home, & being a bedd with his wife, would feine have been att some thing that shee was unwilling to, & instead of complying fell to chideing him for his being abroad so long, Well sayes hee, if you will not, call upp Su (his wifes Chambermaid) upon that shee yeilded presently.

(*a*) Montaigne relates in his Essays, bk. 1, c. 20, how he delivered a French person of quality (Comte de tresbon lieu) from the obsession of a specially mischievous and very ancient enchantment (for an extreme form of it, *cp.* the Book of Tobit), by means of a gold amulet and some ritual invented for the occasion. Selden had probably read Montaigne. Did he consciously or subconsciously follow the example, or was it a case of great wits jumping ?

State

[To p. 124 above]

In a troubled State save as much of yo^{r}. owne as you cann. A Dog had been att Markett to buy a shoulder of mutton, comeing home hee mett two Doggs by the way that quarrel'd with him, hee laid downe his shoulder of mutton & fell to fighting with one of them, in the meane time the other Dogg fell to eating his shoulder of mutton. Hee, seeing that, left y^{e} Dogg hee was fighting with & fell upon him that was eating. Then the other Dogg hee[1] fell to Eate. When hee p[er]ceiv'd there was no remedy, but w^{ch} of them soever hee fought withall his Mutton was in danger, hee thought hee would save as much of it as hee could & thereupon gave over fighting and fell to Eating himselfe. [fo. 76*b*]

Predestinacōn

[To p. 109 above]

Is a point inaccessible out of our reach, wee cann make no Notion of,[2] 'tis so full of intricacy, so full of Contradiccōn, tis in good earnest as wee state it halfe a Dozen Bulls One upon another.

Question

[To p. 115 above]

When a doubt is propounded you must learne to distinguish & shew wherein a thing holds & wherein it does not hold[3] I (*a*) or noe never answered any question. The not distinguishing where things should bee distinguished & the not confounding

(*a*) The common way of writing 'aye,' as already noticed.

[1] V. om. [2] V. ins. it. [3] The last six words interlined.

where things should bee confounded is the cause of all the mistakes in the World.

Religion

[To p. 121 above]

Wee talke much of settling Religion. Religion is settled well enough already, if wee could lett it alone, methinks wee[1] looke after &c.

Reverence

[To p. 122 above]

1. Tis sometimes unreasonable to looke for respect and reverence, either from a mans owne servants, or from other Inferiours. A great Lord & a Gentleman talkeing together there came a Boy by leading a Calfe with both his hands. Sayes the Lord to the Gentleman, You shall see me make the Boy lett his Calfe goe; with that hee came towards him thinking the boy would have putt of[f] his hatt, but the boy tooke no notice of him; the Lord seeing that, Sirrah sayes hee, doe you not know me, that you use no reverence? Yes sayes the boy, If yo^{r}. Lordshipp will hold my Calfe I will putt of[f] my hatt.

[fo. 77]

Transubstantiation

[To p. 130 above]

[3.] The best way for a pious man, is to address himselfe to the Sacram^{t}. with that Reverence and devotion as if Christ were there really present.

Women

[To p. 141 above]

An Opinion grounded upon that Gen 6. The sonns of God saw the daughters of men that they were faire.

[1] V. ins. might: but *cp.* par. 14, of which this appears to be a fuller version.

Sacrament

[To p. 123 above]

[2.] No man liveing can tell whether I am fitt to receive y^e^ Sacrament, for though I were fitt the day before when hee examined me, att least appeared soe to him, yet how cann hee tell what sinn I may have comitted that night or the next morning, or what Impious Atheisticall thoughts I may have about me when I am approaching to the very Table?

Finis.

Postscript to the critical notes.—We have seen that the Lincoln's Inn MS. has numerous minor differences from the old printed editions, usually agreeing with the text of the Harleian MSS. as given by Reynolds. He did not care to note these variants, but I have been at some pains in ascertaining them. Most of them do not affect the sense, but if one begins to pick and choose in such matters the reader has no security. Herein I have been saved from not a few oversights by the vigilance of the keen-eyed and expert printers' reader. Former editors hardly perceived, it seems to me, how bad the old text was; nor did I know it fully till after some minute acquaintance.

NOTE ON THE ESTATES OF THE REALM

(P. 64 above).

READERS desirous of pursuing this matter should consult, in addition to Reynolds's comment and citations, Stubbs, *Const. Hist.*, ch. xv., especially s. 185 ; the article ' Estate ' in the *Oxford English Dictionary*, by Henry Bradley (1897) ; Professor A. F. Pollard, *The Evolution of Parliament* (1920), *cp.* Professor James Tait thereon in *Eng. Hist. Rev.* xxxvi. 252, and correspondence in the *Times Literary Supplement* of July 3, 10, 17, 1924, in which Professor Pollard and myself took part.

It may be useful to sum up the results ; the new light in which the facts are viewed is mainly derived from Professor Pollard's work. The use of ' estate ' as a political term came here as an exotic. In the fourteenth century it was regular in Scotland, France, and Spain ; it does not appear in England before the fifteenth. ' Estate ' in this sense never became a ' word of art ' in our courts, and so was never the subject of a judicial definition. Neither official usage nor that of historians and publicists has been uniform ; but I shall endeavour to show cause for Selden's usage (which was also Queen Elizabeth's) being the better. The truth is that when the term was introduced it had already ceased to fit our institutions, if it ever did. For a Scot, a Frenchman, or a Spaniard an estate of the realm was a body of men living in a distinct civil and political condition under a particular law and custom of its own, a collective and separate unit in a composite whole. For an Englishman it was a condition of men having a distinct social standing but otherwise distinguished from others only in certain limited respects, regarded as a constituent of the body politic, not as a separate unit. It took three sorts to make the High Court of Parliament, but Parliament was one. The difference in authentic formulas is instructive. In Castile the King summoned the estates of his realm to take counsel with him by that name. In Scotland Acts passed in the King's name with the consent and deliverance of the three estates. Here the style was and is ' with the advice and

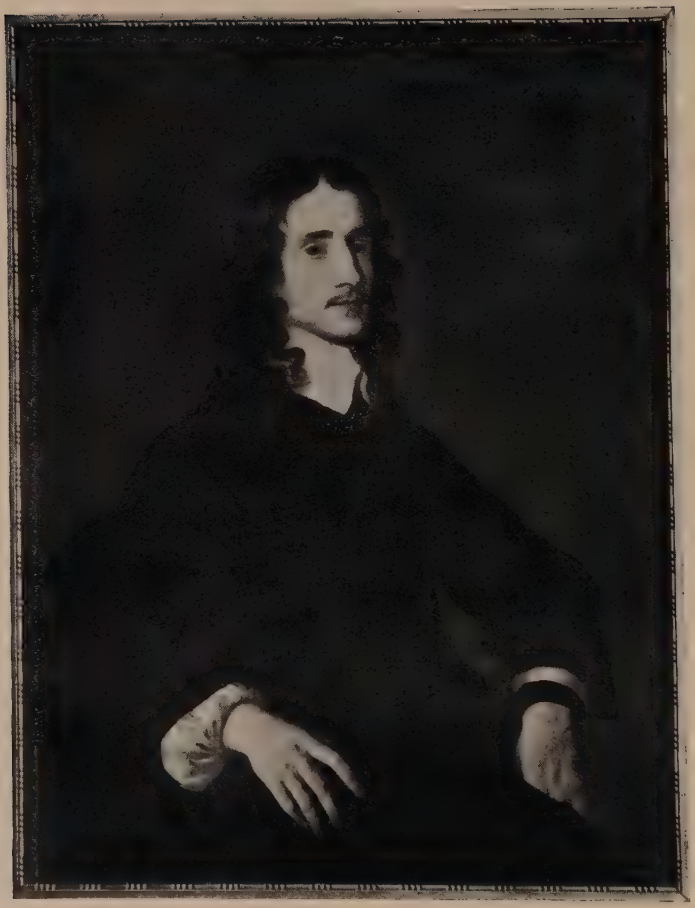
consent of the Lords spiritual and temporal and Commons'; of estates never a word. It will be observed that, whatever might be said in England for calling the King an estate, it occurred to no one outside England to call him so. The laxity of our practice, of which there are pretty early examples, may be evidence of an obscure sense that after all it did not matter very much whether a name having no legal significance was applied with accuracy or not.

It is now a familiar observation that in England we have never had a *noblesse* of the Continental type, while the Continent can show nothing like our ancient untitled families who have continued their name and tenure through a score of generations as plain *armigeri*. We may note in passing that the merchants never became an estate; things looked rather like it once or twice, but on the whole it was understood that sea law and the custom of merchants dwelt apart in a cosmopolitan category of their own, each being indeed a branch of the universal law of nature.

The controversy which provoked Selden's pronouncement had a special motive. An extravagant claim had been put forward on behalf of the Bishops: as an estate of the realm, unwise partisans maintained, they were entitled to have a separate collective voice in Parliament, and therefore an absolute veto on all parliamentary proceedings. This was clearly not allowable, and Parliament men who had no love for episcopacy retorted no less extravagantly. They might have said: 'You may be an estate, but you have sat and voted as one body with the lords temporal for some centuries. Whatever the name, a name unknown to our law, may signify beyond seas, it will not serve you here to undo the custom of the realm.' But what they did say was: 'If you talk of estates we deny that you are an estate at all or have any business to be in Parliament. Our three estates are King, Lords Temporal, and Commons.' There was a secondary anti-monarchical motive less easy for a modern student to understand. If the King could properly be called an estate (as in English speech there was no difficulty about any great personage being so called by way of honorific addition), that would seem in reason to make for magnifying rather than disparaging the King's place as an active and indispensable party to affairs of State. His assent in any case would remain as necessary as before. Selden does indeed appear to have said that if, 'as some would have it,' the King were one of the three estates, 'then if two agree, the third is involved.' I confess myself unable to appreciate his point if Milward's report omits nothing

material. Whatever the estates were, it was beyond argument that they must all concur. In fact the new doctrine was never relied on against the King. After he took the field the Long Parliament had to face the problem of dispensing with his presence without an open revolution, and took the quite different line of imitating, not correctly, the Ordinances known in the practice of medieval parliaments.

For us at this day there is left only a question of literary usage. As to this, it is one thing to say that there is no settled practice and another to deny that on the whole matter there may be a better opinion. Indeed respectable and even eminent authors may be vouched for manifest abuses of the King's English. In this case, if we are to use medieval terms, it seems best to use them, unless there is some good reason to the contrary, in a sense consistent with their original meaning. Surely Stubbs was right on principle when he wrote that ' in no medieval theory of government could the King be regarded as an estate of the realm,' being as he was ' the head, not a limb, of the body politic ' (*Const. Hist.* c. xv. s. 185 *ad fin.*). And it is not without significance that Maitland, in his lectures on Constitutional History, did not so much as allude to the doctrine rejected by Selden, while in his preface to *Memoranda de Parliamento* he spoke without hesitation of the King (Edward I. in 1305) summoning the estates. If Englishmen did not know, as certainly many did not, what an estate of the realm was, that may explain but hardly justifies the uncertainty of English usage. But, since the term belonged to an order of conceptions already becoming obsolete here (and this, I think, is the most material point in the story), it was peculiarly exposed to the deformation which commonly befalls exotic terms.



JOHN SELDEN.

From a Picture in the Bodleian Library
(Mrs. R. L. Poole's Catalogue of Oxford Portraits, No. 118)
ascribed to Sir P. Lely.

To face p. 153.

JOHN SELDEN

By the late Rt. Hon. Sir Edward Fry.

(Reprinted by permission from the *Dictionary of National Biography*.)

Selden, John (1584–1654), jurist, was born on 16 Dec. 1584 at Salvington in the parish of West Tarring, Sussex, and was baptised there on 30 Dec. 1584. His father, John Selden, is described by Selden himself as 'ex familia quae tunc ibi viguit honesta'; by Aubrey as 'an yeomanly man of about 40*l.* per annum,' and in the baptismal register of his son as 'the minstrell,' an office which appears from the parish accounts to have involved attendance at the church ales. Selden's mother was Margaret, only daughter of Thomas Baker of Rushington, of a knightly family in Kent. She is said to have been won by the musical talents of her husband, and to have brought him a pretty good estate. The house in which Selden was born is still standing, and has on the door a Latin inscription, perhaps of his composition. After being educated at Chichester free school under Hugh Barker, he was sent to Hart Hall, Oxford, and matriculated on 24 Oct. 1600; he was committed to the tuition of Anthony Barker, but left without graduating. In 1602 he was entered at Clifford Inn, and in May 1604 was admitted to the Inner Temple, and called to the bar on 14 June 1612.

Selden practised the law in the Temple, occupying chambers at the top of Paper Buildings looking towards the garden. It is

probable that he never had any large or general business in the courts, though he appeared with distinction in a few great cases involving special learning; it is probable also that he gave opinions and practised as a conveyancer. In 1624 Selden was fined and disabled from holding any office in his inn for refusing to act as reader; in 1632 he was relieved from disability, and in 1633 elected a bencher. From an early period he acted as steward to Henry Grey, ninth earl of Kent, with whom his relations were always close; but study was always his main occupation.

Selden's studies were, even in his early days in London, not confined to the law. As early as 1605 he had made the acquaintance of Ben Jonson, Camden, and probably of Sir Robert Bruce Cotton the antiquary, who soon offered Selden the hospitality of his house in Palace Yard, and made him free of his invaluable library. Probably no event was so important in determining the course of Selden's studies. Selden and Camden were in 1605 among the guests entertained by Jonson on his release from prison, to which he and Chapman had been committed for insulting Scotsmen in their 'Eastward Hoe.' When Jonson's 'Volpone' was published in 1607, Selden contributed a prefatory 'carmen protrepticon' (cf. Jonson, *Conversations with Drummond*, Shaksp. Soc. pp. 10, 20, 36). In 1607, too, he completed a work entitled 'Analecton Anglo-Britannicon,' which is an attempt to give a summary of the history of the inhabitants of this island from the earliest times down to the Norman invasion. The work, which first saw the light in 1615 at Frankfurt in an incorrect and mutilated form, was dedicated to Sir Robert Bruce Cotton. In 1610 he published 'Jani Anglorum Facies altera,' in which he discussed with great learning, but in a somewhat indigested form, the traces of the laws and customs of the Britons, the Saxons, and the Norsemen. A lack of decision in drawing the line between the successive inhabitants of this island injures the work, which was dedicated

to Robert, earl of Salisbury, the lord high treasurer. In the same year (1610) appeared 'England's Epinomis,' which is to some extent an English version of the 'Janus'; but the 'Janus' contains passages not in the 'Epinomis,' while on the other hand the latter tract contains a discussion with regard to the laws of Richard I and John not to be found in the Latin. In this same year (1610) appeared the tract entitled 'The Duello or Single Combat: from Antiquity derived into this Kingdom of England, with several kinds and ceremonious forms thereof, from good authority described.' The result of Selden's investigations into the origin of this mode of trial led him to attribute it to the Normans, a conclusion in which he is supported by the best modern authorities (Pollock and Maitland, *History of English Law*, ii. 597).

The publication of three such works in one year by a student of an Inn of Court of two years' standing was a remarkable evidence of industry and learning. Selden's next two publications show him associated with the poets of his day. In 1612 he wrote (at the request of Michael Drayton, then poet-laureate) notes on the first eighteen cantos of his 'Polyolbion,' and in 1613 he wrote commendatory verses in Greek, Latin, and English to William Browne's 'Britannia's Pastorals.'

In 1614 Selden published his 'Titles of Honour,' dedicated to his friend and chamber-fellow, Edward Heyward. In the first part he deals with the titles and dignities of emperors, kings, and other rulers, beginning with the inquiry whether there were kings before the Flood. In the second part he deals with inferior titles, commencing with those of heirs-apparent to thrones; and finally discusses feminine titles, honorary attributes such as 'clarissimus' and 'illustris,' and the laws of precedence.

In 1616 Selden edited the treatise of Sir John Fortescue (1394 ?–1476 ?), 'De Laudibus Legum Angliae,' and in 1617 he

wrote a 'Treatise on the Jews in England' for Purchas; this appeared in Purchas's work in a mutilated form, a circumstance which is said to have led to a quarrel between the two authors.

In the same year (1617) appeared Selden's treatise 'De Diis Syris,' the first of his oriental studies (see pp. 171–4 below). In the same year also was written 'A brief Discourse touching the Office of Lord Chancellor of England,' which was presented by Selden to Sir Francis Bacon on his appointment as Lord Keeper. A fourth and still more important book appeared in the same year (1617), the 'History of Tythes,' the best known of all Selden's productions, except his 'Table Talk.' It was dedicated to Sir Robert Cotton. Selden begins the history of tithes with a gift of Abraham to Melchizedek, and then discusses them as they existed among the Jews. He next considers what traces there are of them among the Greeks and Romans; then, arriving at the Christian era, he divides the history into periods—from the birth of Christ to A.D. 400, from A.D. 400 to 800, from A.D. 800 to 1200, from A.D. 1200 to his own day—dealing in fullest detail with their origin and development in England.

In more than one passage of this essay Selden handles the question whether tithes are payable *jure divino*. In the sixth chapter (section 6) he first approaches the subject; he does not deny that they are payable by what he calls 'ecclesiastical or positive law,' but he denies that they are payable by what he calls 'the divine moral law or the divine natural law, which should bind all men and ever'; and he endeavours to show that the practices of the early church were consistent only with this view. In the seventh chapter he again reverts to the subject, and states the chief question in debate among divines in these terms: 'whether by God's immediate moral law the evangelical priesthood have a right to tythes in equal degree as the layman hath to his nine, or if they have them only as by human positive law and

so given them for their spiritual labour.' It obviously follows that if tithes are of divine law, both as to their existence and their quota, they cannot be affected by human law; and here Selden's love of the common law comes into play, and he urges the fact that 'the practised common law . . . hath never given way herein to the canons, but hath allowed customs and made them subject to all civil titles, infeodations, discharges, compositions, and the like.' It is not perhaps difficult to guess in which direction the mind of Selden leaned on this crucial question between the canon and the common law, but it is difficult to find in the treatise any direct expression of his private judgment.

It was not only passages touching 'the divine right' of tithes which gave offence to the clergy. The preface appears to have been written after the work had made some noise, owing doubtless to the circulation of the manuscript among Selden's friends. In this preface he with more than usual spirit turns on his critics; he energetically protests that his book is 'not written to prove that tythes are not due by the law of God; not written to prove that the laity may detain them; not to prove that lay hands may still enjoy appropriations; in sum, not at all against the maintenance of the clergy; neither is it anything else but itself—that is, a mere narrative of the History of Tythes.' With increased heat he pointed to the opposition which the clergy offered in past times to the progress of true knowledge and to the suspicions with which they had viewed 'the noble studies' of Roger Bacon, Reuchlin, Budaeus, and Erasmus. When published the book aroused a fierce storm. The author was summoned to answer for his opinions before some of the lords of the court of high commission and some of the privy council, and he acknowledged his error in a few lines in writing. The submission contained, as Selden contended, no confession of mistakes in the book, and expressed no change of opinion, but merely regret at the publication

of the work. The form of the submission was probably a matter of arrangement between himself and those of his judges who seemed to favour him. The book itself was suppressed by public authority, and by some command, probably of the king, he was forbidden to print any reply to his numerous antagonists, a restraint of which he bitterly complained to the Marquis of Buckingham in May 1620.

On three occasions King James sent for Selden, twice at Theobalds and once at Whitehall, and discoursed with him on his 'History of Tythes' and on other learned questions. Three tracts—only the last seems to have been separately published—were the result of the king's commands given at these interviews: one on the passage in the Revelation of St. John touching the number 666; another on a passage of Calvin in reference to this book; a third on the birthday of our Saviour (London, 1661, 8vo). To these was added a paper on his purpose in writing the 'History of Tythes.'

Selden had thus become a man of mark before he entered upon his political career, which opened in 1621. The object of the legislation of the period was to secure the liberty of the subject and the right of the House of Commons to free debate by declaring rather than by altering the existing law, and the great debates in which Selden, Coke, and Eliot took part often seem rather to have resembled arguments in a court of law than debates in a legislative assembly. The ancient records both of the courts and of the house were often produced and read, and were the subjects of lively though learned discussion.

Selden had acquired vast knowledge of constitutional law and of the records of the law courts and of parliament, and was often consulted on these subjects before he was returned to the commons. In the preparation of the famous protestation of the commons of 18 Dec. 1621, Selden, although not a member of the house, took

an active part in the way of seeking precedents. His action gave umbrage to the king, and he was, with others, by the king's orders committed to the custody of Sir Robert Ducie, sheriff of London, who treated him courteously. After the prisoners had been brought before certain peers and privy councillors, presided over by Lancelot Andrewes, bishop of Winchester, all were liberated. Again, in 1622, before Selden entered the house, Bacon consulted him on the question of the validity of the judgments given in the House of Lords during the late parliament (see Bacon's letter of 14 Feb. 1621–2 in Spedding's *Life and Letters of Bacon*, vi. 332–3).

In 1623 Selden was returned to the fourth and last parliament of James as a burgess for Lancaster. In the first parliament of Charles I he does not seem to have sat, but in 1626 he was returned to the second parliament of Charles I as member for Great Bedwin, Wiltshire. He then took an active part with Wentworth and Noy in the attack on Buckingham, and was sent to the lords as one of the chief managers in the impeachment of the favourite. To him was assigned the presentation of the argument in favour of the fourth article which charged the duke with neglecting to guard the seas and protect the merchants; and of the fifth article, which charged the duke with confiscating a French ship, the St. Peter, worth 40,000*l.*, with detaining her after an order by the king for her restoration to the owner, and with taking several things out of her. Selden was also nominated one of a secret committee of twelve to prepare the proofs of the charges against Buckingham. In June 1626 the house was dissolved, and the matter dropped, but on 17 June Heath, the attorney-general, invited the twelve members of the secret committee to attend him at his chambers. The meeting took place, and Eliot, who was authorised to draw up a reply on behalf of the committee, was at once arrested. Selden spent the ensuing long

vacation under the hospitable roof of the Earl of Kent at Wrest, Bedfordshire, pursuing antiquarian and historical study.

While the sitting of parliament was suspended, the political strife was transferred to the courts of law. In 1627 several persons were committed to prison by order of the privy council for refusing to lend money to the king on his sole demand. Of these prisoners, Sir Edmund Hampden sued out a habeas corpus in the king's bench, and in November the question of the legality of their detention on a warrant, which did not specify the offences, was argued before the court. Selden appeared as counsel for Hampden. The argument of the counsel for the prisoners excited great and unwonted sympathy, and their speeches are said to have been received with wonderful applause. But the court refused to bail the prisoners. In March 1628, four days before the opening of Charles's third parliament, to which Selden was returned as member for Ludgershall, Wiltshire, he and other liberal leaders met to concert their plan of action at Sir Robert Cotton's house in Palace Yard. Selden and Coke argued that the reassertion of the ancient laws of the country by which the liberty of the subject was secured must take the first place, and that until this was accomplished no progress could be made in the redress of grievances. This opinion prevailed.

Accordingly, when parliament met, Selden took a prominent part in the debates which arose on the question of habeas corpus ; he was the chairman of the committee appointed to consider the precedents as to imprisonment without cause assigned. On 2 April 1628 he addressed the house on the question. On 7 April he, together with Coke and Littleton, laid before the House of Lords the resolutions of the commons on the subject, and delivered before the lords a speech in assertion of the liberty of the subject. These speeches of Selden, together with copies of the records cited, were ordered by the house to be entered on the journals, and

liberty was given to the clerk to give out copies. They formed probably a kind of manual from which less learned members of the party might prepare speeches.

The records with which Selden had fortified his speech before the lords became the occasion of an angry controversy. Lord Suffolk was reported to have charged Selden with tampering with one of the documents cited, and to have added that Selden deserved to be hanged. These words were brought before the House of Commons, which on 17 April 1628 presented to the lords two charges against the earl. In the upper house Suffolk declared that he had never used the words. In the Commons Sir John Strangways declared on his honour that the earl had used the words. On 8 April 1628 (the day following his speech before the lords) Selden spoke on the question of the billeting of soldiers, and on 11 April on the question of martial law. Numerous notes have been preserved of speeches against the pretensions of the crown made by him on later days in the session. On 5 June the king sent the house a message that it would be adjourned on 11 June, and in the angry debate which followed Selden spoke in favour of naming Buckingham. On 18 June he opposed the king's claim to the personal estate of a deceased bastard, and next day (19 June) he spoke on a bill for the restitution to his rights of Carew, son of Sir Walter Ralegh. On 26 June the house was prorogued.

The recess of 1628 was passed by Selden at Wrest, and there he occupied himself with his work on the Arundel marbles. In January 1629 parliament again assembled; on 22 Jan. Selden brought before it the case of Savage, who had been sentenced by the Star-chamber to lose his ears. On 12 Feb. he supported the petition of the printers and booksellers against Laud's interference with their trade. In the same month he took an active part in the discussion of the bill for tonnage and poundage.

In the violent scene of 2 March with which that session ended, Selden addressed the Speaker in words of grave warning.

On 4 March 1629, in consequence of the house's proceedings, nine members, among whom were Selden and Eliot, were conducted to the privy council sitting at Whitehall, and, without hearing, were committed to the custody of Sir Alan Apsley, the keeper of the Tower (' vir humanissimus,' as Selden describes him), for imprisonment during the king's pleasure. At the same time, under an order from the king and council, seals were placed on the papers of Selden, Eliot, and Holles. On 10 March the parliament was dissolved by the king. On 17 March the prisoners were examined, in the presence of certain privy councillors, by Sir Robert Heath, the attorney-general. Selden's account of his answers is somewhat vague, but they seem to have consisted of an unblushing denial of the real facts as to the part he had played in parliament (cf. Gardiner, *History*, vii. 80). During his imprisonment Selden was at first denied the use of books and papers—a deprivation very bitter to his studious nature. Subsequently, on his petition, this prohibition was relaxed, but not without vexatious conditions. On 6 May and 5 June the cases of Selden and some of his fellow-prisoners were brought before the court of king's bench on applications for a habeas corpus and for bail respectively, Selden, Valentine, and Holles sitting in court by their counsel, Littleton, the substance of whose argument had been prepared by Selden. In the result the prisoners were remitted to prison, to be produced in court after the long vacation. Their detention had, according to the evil practice of that age, been a subject of conference and of correspondence between the king and the judges. In a letter from the king to the judges of his bench (24 June 1629) Charles says, in evident reference to their appearance in court during the argument of their case, that he had heard that the prisoners ' had carried themselves unmannerly

towards the king and their lordships ' ; and he intimates a desire that they should be kept in prison indefinitely. At first Charles was inclined to assent to a more lenient treatment in the case of Selden and Valentine, but on more mature deliberation he directed that all the prisoners should be treated alike. In October efforts were made to induce the prisoners to accept liberty on the terms of entering into security for their good behaviour, and the king wrote to Hyde, the lord chief justice, urging him to force them to submission. This demand for security was resented by Selden as a gross indignity to men of position and honour and members of the late parliament. Irate at the strong position taken by the prisoners, the court seems to have increased in the following month the harshness of their imprisonment. They were deprived of the liberty of moving about within the precincts of their prison and of seeing their friends. Selden's place of imprisonment was frequently changed, and he passed in turn from the Tower to the Marshalsea (at Southwark) and the Gate House at Westminster (cf. Rushworth, ii. 73–4).

At last, in May 1631, Selden was liberated at the instance of the earls of Arundel and Pembroke, who were anxious to have his assistance in some litigation in which he had special knowledge. He was set free on giving security to appear before the court on the first day of the next term, and this procedure was repeated till February 1635, when, as the result of a somewhat abject petition to the king presented in October 1634, he was unconditionally discharged.

During these harassing and intricate proceedings, viz. in 1630, another prosecution was begun against Selden in the Star-chamber for circulating copies of a squib written in the preceding reign by Sir Robert Dudley, and called ' A Proposition for his Majesty's service to bridle the impertinency of Parliament.' The prosecution was allowed to drop on the birth of a prince of Wales.

The court's hostility seems to have excited little or no resentment in the mind of Selden. In 1631 it was rumoured that he had gone over to the royalist side ; in 1633 Selden actively helped to organise the masque which the four inns of court prepared at once to give expression to their loyalty, and to show their dissent from Prynne's ' Histrio-mastix ' (Whitelocke, pp. 19–22).

In the Short parliament of 1640 Selden does not appear to have sat ; but to the Long parliament he was returned by his university of Oxford. His colleague, Sir Thomas Roe, died in 1644, and, as the vacancy was not filled up, Selden alone represented the university during the rest of the Long parliament. He was appointed one of the committee to examine the papers of Lord Strafford, but opposed the proceedings of the house against him. On 10 Nov. 1640 he was placed on the committee on the state of the kingdom ; on 23 Nov. he led the attack on the court of the marshal ; on 27 Nov. he opposed the crown on the great question of ship-money ; on 31 Jan. and 9 March 1641 he spoke on the question of episcopacy, opposing its abolition. On 3 May he signed the declaration of adherence to the church of England ; and on 5 June he was placed on the committee to draw articles of impeachment against Archbishop Laud. On 6 July the house resolved that the sealing of the papers of Selden and other members was a violation of the privileges of parliament. On 17 Jan. 1642 he was one of a committee of twenty-two appointed to examine Charles I's violation of the privileges of parliament, and to petition the king for the payment of damages to Pym, Hampden, and others unjustly accused of treason. In the following month (4 Feb. 1642) an order was made that Selden and certain other members should attend on Wednesday next, and continue their service in the house, an indication perhaps that Selden was somewhat withdrawing from his parliamentary labours, and of a suspicion that he was inclining towards the king's side.

In 1642 the king entertained the notion of entrusting the great seal either to Lord-chief-justice Banks or to Selden. But Lord Falkland and Hyde, who were consulted on the point, felt so positive that the offer would be refused by Selden that the matter went no further (Clarendon, *Hist.* v. 209). Another attempt, made by the king through the Marquis of Hertford, to induce him to leave London and join the court at York was met by Selden's alleging, and probably with truth, that he could be of more service to the king in London than in York. 'He was in years,' says Clarendon, 'and of a tender constitution; he had for many years enjoyed his ease which he loved; was rich, and would not have made a journey to York or have lain out of his own bed for any preferment.' When, in this same year (1642), there arose between the king and commons the great question as to the control of the military force of the kingdom, Selden took up a position which appears to have expressed his real and unbiased opinion: he regarded the commission of array issued by the king as entirely illegal, and spoke strongly against it in the house; but he also regarded the ordinance of the militia as 'without any shadow of law or pretence of precedent,' and stood against it accordingly. To these opinions he adhered when Lord Falkland, with the knowledge of the king, addressed him on the subject. In the same year arose the question as to the power of parliament to nominate lords lieutenant in the absence of the king with the army. It was a matter which divided the party of progress. But Selden went with the advanced guard, and accepted a commission as deputy lieutenant under a lord lieutenant appointed by parliament.

In 1643 Waller formed a royalist plot for overpowering the city militia and dissolving the parliament. One evening he went to Selden's study, where he found him, Pierrepoint, and Whitelocke, with the intention of imparting the plot to them; but after he

spoke of the project in general terms Selden and his friends so inveighed against any such thing 'as treachery and baseness, and that might be the occasion of shedding much blood, that he durst not for the awe and respect which he had for Selden and the rest communicate any of the particulars to them, but was almost disheartened himself to proceed in it.' After the discovery of the plot, and Waller's arrest, Waller was examined as to whether Selden was in any way privy to his proceedings.

In the same year Selden, with some other members of both houses, sat in the assembly of divines at Westminster. In the debates of this body (says Whitelocke) 'Mr. Selden spake admirably, and confuted divers of them in their own learning. And sometimes when they had cited a text of scripture to prove their assertion, he would tell them, "Perhaps in your little pocket-bibles with gilt leaves" (which they would often pull out and read) "the translation may be thus, but the Greek or the Hebrew signifies thus and thus," and so would totally silence them.' Selden proved a thorn in the sides of the Westminster divines, for he liked the claims of presbytery no better than those of episcopacy; and, according to Fuller (*Church Hist.* bk. xi. sect. ix. par. 54), he used his talents rather 'to perplex than inform' his auditors, his interests being 'to humble the jure-divino-ship of presbytery.'

On 27 Oct. 1643 the House of Commons resolved that the office of clerk and keeper of the records of the Tower should be sequestered into the hands of Selden, and that he should receive the profits of the place. Proceedings of the council of state in 1650 (17 Oct. and 20 Dec.) seem to show that Selden had then ceased to derive any benefit from the office, but was willing to continue in it without reward. In April 1645 he was appointed one of twelve commoners who, together with six lords, constituted a committee to manage the admiralty. In August Selden declined

the mastership of Trinity Hall, Cambridge, which he was offered by the direction of the House of Commons. In September he opposed in a speech, the substance of which has been preserved, the petition of the assembly of divines that in every presbytery the pastors and ruling elders should have the power of excommunication and of suspending from the sacrament. On 24 Feb. 1646 he spoke in favour of the abolition of the court of wards.

On 18 Jan. 1647 the house resolved that Selden should have 5000*l.* 'for his damages, losses, imprisonments, and sufferings sustained and undergone by him for his services done to the Commonwealth in the parliament of Tertio Caroli.' It is doubtful whether Selden received this sum; a report was current that he 'could not out of conscience take it' (Wood, *Athenae Oxon.*). His conduct in a suit relating to a Mrs. Fisher's will (S.P.C. 1631, pp. 233, 371), and in relation to the office of keeper of the records, seems to show that this report is probably true. On 23 Feb. 1649 a committee was appointed by the council of state to consider the dignity and precedence of ambassadors, and Selden and Challenor were directed to assist them.

Selden took no further part in public affairs. During the trial and execution of the king and the rise of Cromwell, Selden abstained from any expression of his views. 'The wisest way for men in these times is to say nothing' was a maxim of his, on which he seems to have rigorously acted (*Table Talk*, Peace).

But Selden was able to protect the cause of learning during these troubled times. He procured the delivery to the university of Cambridge of Archbishop Bancroft's library; and to the university of Oxford he rendered more important services. In 1646 the vice-chancellor appealed to him to 'relieve his declining undon mother'; and when in May 1647 an ordinance of the lords and commons was made for the visitation and reform of the university, Selden was appointed one of the committee to hear

appeals from the visitors. In numerous sittings of that body Selden took an active part, and was able to temper the somewhat unfair treatment to which the university was in danger of being subjected.

In spite of the pressure of his public duties, Selden's literary work had progressed steadily. From the treasures of Sir Robert Cotton's library he had edited the six books of Eadmer, giving an account of the courts of the first two Williams and of the first Henry. To the text he appended 'Notae et Spicilegium,' and published the work in 1623. In 1629 appeared a yet more important work, the 'Marmora Arundelliana,' an account of the ancient works of art collected by Thomas Howard, second earl of Arundel. The work was begun in 1627 with the aid of Patrick Junius and Richard James, and was completed in the long vacation of 1628 at Lord Kent's mansion at Wrest. When published in 1629 it had a great and rapid sale. Its most important contents included a chronicle known as the 'Parian Chronicle' (deciphered from the Marmor Parium, the upper half of which has since disappeared), and documents relative to the treaty between the peoples of Smyrna and Magnes, followed by versions in ordinary modern Greek and in Latin. A few Latin and Hebrew inscriptions are also discussed. This work, though it did not escape the censure of Bentley (*Dissertation on Phalaris*), is one of the highest value; it marks 'a sort of aera,' says Hallam, 'in lapidary learning.' Boeckh, who closely followed Selden, testifies not only to the accuracy of his transcriptions, but to the excellence of his commentary.

At the command, it appears, of James I, Selden had in 1618 composed an essay in support of the English claim to the dominion of the seas. Already in 1609 Grotius had in 'Mare Liberum' maintained, in accordance with the present theory of international law, that the high seas were open to all. Three or four years later

some English vessels took from Dutch vessels laden with the spoil of twenty-two walruses, taken in the Greenland waters, all the results and all the instruments of capture, on the ground that the Dutchmen lacked the English king's licence to fish in Greenland waters. Holland complained to England, and in 1618 a conference between commissioners of the two powers took place in England, at which Grotius was one of the representatives of Holland. It was on this occasion that Selden prepared his treatise, but at the time the king declined to authorise the publication from a fear that some passages might displease the king of Denmark, to whom James was deep in debt. In 1635 Selden, at the command of Charles I, again took the work up; Laud acted as intermediary, not without the hope that this gleam of court favour would win Selden to the royal side. In this project Laud failed; but it led to an intimacy between him and Selden, who became 'both a frequent and a welcome guest at Lambeth House, where he was grown into such esteem with the archbishop that he might have chose his own preferment in the court (as it was then generally believed), had he not undervalued all other employments in respect of his studies' (Heylyn, *Life of Laud*, ed. 1671, p. 303).

In 1636 the work was published under the title of 'Mare Clausum, seu de Dominio Maris libri duo.' It is, like all the works of Selden, replete with learning; but in this case the propositions in support of which that learning is used are so directly at variance with the most elementary rights of men, that the learning was wasted. The first book argues that by the law of nature or nations the sea is not common to all men, but is as much as the land the subject of private property. In the second book he maintains that the lordship of the circumambient ocean belongs to the crown of Great Britain as an indivisible and perpetual appendage. This claim has long since been abandoned.

Charles I was so pleased by Selden's performance that, by an order of the privy council, it was directed that one copy should be kept in the archives of the council, another in the court of exchequer, and a third in the court of the admiralty. Meanwhile, in obedience to a command of the House of Lords, Selden prepared his treatise on the 'Privilege of the Baronage of England,' and on 6 Dec. 1641 delivered his work into the hands of the sub-committee for privileges of the house (Introd. ad fin.). The first part relates to privileges enjoyed by the baronage of England, 'as they are one estate together in the upper house,' as e.g. the privilege of voting by proxies; the second relates to privileges enjoyed by them, 'as every one of them is privately a single baron,' as e.g. their right of substituting a protestation upon honour for an oath, and their benefit of clergy though unable to read.

In 1647 Selden published his edition of 'Fleta,' an early English law treatise (based on Bracton), of which a unique manuscript belonged to Cotton. To his treatise Selden prefixed a dissertation of great and varied learning, travelling over a wide range of subjects (Pollock and Maitland, *History of English Law*, i. 188).[1] He mainly deals with the influence of Roman law on English jurisprudence, and discusses the place of the civil law in the courts martial and the courts of the admiralty, not without a reference to the almost obstinate love of the English people for their common law. Such a work appears an ample justification of the founders (in 1887) of the Selden Society for their selection of Selden as their eponymous hero.

In 1653 Selden assisted Sir Roger Twysden in editing ten works on English history which had not hitherto been printed. This work was published in 1653 as 'Decem Historiae Anglicanae Scriptores.' Selden, by way of preface, composed and published

[1] [We now have an excellent edition and translation of this by Mr. David Ogg, Cambridge 1925.—F. P.]

his 'Judicium de Decem Historiae Anglicanae Scriptoribus.' A discussion on the Culdees occurs in the section on Simeon of Durham, as well as observations on the 'Scotichronicon.' In other cases Selden confined himself more strictly to stating what was known about the author in question.

In 1652 Graswinckel, a Dutch jurist, published at The Hague 'Maris Liberi Vindiciae adversus Petrum Baptistam Burgum Ligustici maritimi dominii assertorem.' Under colour of attacking Burgus and the question about the dominion of the Italian waters, the writer attacked Selden and the claim of Britain to dominion over the adjacent ocean; and he asserted that Selden had written his 'Mare Clausum' for the purpose of getting out of prison. To such allegations Selden replied in his latest book, 'Vindiciae' (1653), in which he gave a full account of his imprisonments and of the writing and the publication of the 'Mare Clausum.' This book, like others in which Selden engaged in a hand-to-hand conflict with some antagonist, contrasts favourably as regards the directness and simplicity of its style with his more learned treatises.

Meanwhile, from his earliest years Selden had found time to combine with his legal studies voluminous researches in oriental learning. For use in his oriental studies Selden made a collection of manuscripts and printed books, most of which passed at his death into the Bodleian Library; he also had access to the manuscripts which Laud was procuring at great trouble and expense, and which were stored at Lambeth or presented to the university of Oxford. Selden's own collection is rich in Hebrew and Arabic works (some of the latter rare and unprinted to this day); the Persian, Turkish, and Chinese languages are also represented in it, besides western idioms. He first won fame in Europe as an orientalist by his treatise 'De Diis Syris,' published in London in 1617, but, according to the preface, finished twelve

years before; parts of this subject had been already handled by the Toulouse professor, Peter Faber, in the third volume of his 'Semestria' (Leyden, 1595). The charge, however, levelled against Selden by his enemies of having plagiarised from Faber was unfounded. Selden's book attracted attention on the Continent, and was reprinted in 1629 at Leyden by L. de Dieu, afterwards celebrated as a Semitic scholar, at the instance of Daniel Heinsius, to whom the edition was dedicated by Selden; in 1668 it was reprinted at Leipzig; use was also made of it by Vossius in his great treatise on idolatry. The material for a satisfactory treatment of Syrian mythology had not then come to light, and Selden's reasoning was vitiated by the prejudice current in his time (and long after) in favour of the antiquity of the Hebrew language and the traditional dates of the biblical books; but the book displays much philological acumen as well as erudition. Most of Selden's work as an orientalist consisted in the exposition of Jewish, or rather rabbinical, law. He published in 1631 'De Successionibus in bona defunctorum ad leges Ebraeorum,' re-edited in 1636 with another treatise 'De Successione in Pontificatum Ebraeorum,' and dedicated to Laud; in 1640 'De Jure Naturali et Gentium juxta Disciplinam Ebraeorum'; in 1644 'De Anno Civili et Calendario Veteris Ecclesiae seu Reipublicae Judaicae'; in 1646 'Uxor Ebraica seu de Nuptiis et Divortiis Veterum Ebraeorum libri tres'; in 1650 'De Synedriis Veterum Ebraeorum,' a work of which the second part appeared in 1653, and the unfinished third part posthumously. All these works were reprinted during the author's lifetime (except the last) at Leyden or Frankfort-on-the-Oder, and the treatise 'De Jure Naturali et Gentium' contained much that was interesting to others besides specialists in Hebrew law, although its defects, lucidly pointed out by Hallam, did not escape Selden's contemporaries. The acquaintance with the original of the

Old Testament and the ancient versions and commentaries which all these works display is very great. Their author's familiarity with rabbinical literature was such as has been acquired by few non-Israelite scholars; and many details of oriental civilisation and antiquities were certainly brought to the knowledge of Europeans for the first time in them. We may instance the Copto-Arabic system of notation (in the calendar reproduced in the third volume of the 'De Synedriis'), and the distinction between the tenets of the Rabbanite and Karaite Jews (in the treatise 'De Anno Civili'). Their extraordinary erudition won much praise, and, as Selden rarely if ever attacked other writers, they offended few susceptibilities; but severe critics complained with justice of their discursiveness and occasional obscurity, and still more of the uncritical use made by Selden of documents of very unequal value; and indeed Selden's statements about Jewish law are more often based on comparatively modern compilations than on the original sources, to some of which perhaps he had not access; and in accepting the rabbinical tradition as a faithful account of the Israelitish state, he was behind the best criticism of his time. A question of more general interest than rabbinical law was approached in his edition of a fragment of the history of Eutychius ('Eutychii Aegyptii, patriarchae orthodoxorum Alexandrini, Ecclesiae suae origines,' 1642). The purpose of this work was to adduce fresh evidence in favour of the view of the original relations between the episcopate and the presbytery advocated by Salmasius and impugned by Petavius. It was attacked with bitterness by Roman catholic writers, and answered in a bulky work by the Maronite Abraham Ecchellensis seven years after Selden's death. The charge of inaccurate scholarship brought against Selden's translation of the Arabic seems unjust, and indeed Selden's acquaintance with the Arabic language, though not profound, was

equal to that of any of the European scholars who preceded Edward Pococke. It was urged with greater justice that the authority of so late a writer as Eutychius (876–940) was insufficient for Selden's purpose. Nevertheless Selden proceeded to prepare an edition of the whole of Eutychius's chronicle, and left instructions in his will that it should be completed by Pococke.

Selden doubtless derived part of his ample means from his employment as steward of the Earl of Kent and from the liberality of the countess. At their country seat at Wrest in Bedfordshire he invariably spent his vacations. After the earl died, in 1639, Selden continued to manage the estate of the dowager countess. By a deed of 6 July 1648 she gave to Selden (in the event of her dying without issue, which happened) an interest for his life and twenty-one years after in her estates in the counties of Leicester and Warwick, and by her will in 1649 she gave to him all her personal estate, including leaseholds. At some date not ascertained he took up his residence in her town mansion, a large house with a garden, called the Carmelite or White Friars, situate a short distance east of the Temple. Aubrey repeats a story, which is probably false,[1] that Selden married the countess, but never acknowledged the fact till after her death, which took place in 1651. Her mansion he speaks of, not without pride, as 'Museum meum Carmeliticum' (*De Synedr.* lib. iii. c. 14, s. 9). It contained his Greek marbles, his Chinese map and compass, his curiosities in crystal, marble, and pearl, his cabinets and cases, all indicated by letters, and, above all, his incomparable library. Selden lived in considerable style (he leaves legacies to four men described

[1] [Although the evidence is weak, I can see nothing incredible. Secret marriages were, before Lord Hardwicke's Act, neither illegal nor very uncommon nor always disreputable. In a later authentic and famous case Madame de Maintenon may even be said to have recalled Louis XIV to domestic virtue. Another well-known case is the Duke of Marlborough's.—F. P.]

as his servants); he was never without learned company, and, though personally temperate, he kept a liberal table.

On 10 Nov. 1654 Whitelocke advised with Selden as to alterations in his will which increasing weakness prevented. He died at Carmelite House on 30 Nov. 1654. Of his deathbed several narratives have been preserved, though none of them seem to be first-hand accounts. One given by Aubrey represents him as refusing to see a clergyman through the persuasion of Hobbes; another, found in the Rawlinson MSS. at the Bodleian, as refusing to receive Hobbes, confessing his sins, and receiving absolution from Archbishop Ussher, and as expressing the wish that he had rather executed the office of a justice of the peace than spent his time in what the world calls learning (Macray, *Annals of the Bodleian Library*, 2nd edit. p. 110 *n.*) According to 'Historical Applications and Occasional Meditations, by a Person of Honour' (1670), he was attended by his friends Archbishop Ussher and Dr. Langbaine, and told them that 'at that time he could not recollect any passage out of infinite books and manuscripts he was master of wherein he could rest his soul, save out of the holy scriptures, wherein the most remarkable passage that lay upon his spirit was Titus ii. 11–14.' Selden was buried in the Temple Church 'magnificently' (says Wood), in the presence of all the judges and of other persons of distinction.

He appears to have died possessed of considerable property both real and personal, a small part only of which he bequeathed to relatives. By a codicil to his will he left some of his books to the university of Oxford (for so it seems to have been construed, notwithstanding an apparent defect), and others to the College of Physicians; the residue of his library he bequeathed to his executors, of whom Sir Matthew Hale was one, but with a gentle protest against its being sold. These books were offered by the executors to the Inner Temple on terms which were

refused, and were subsequently given by them to the Bodleian at Oxford. According to Ayliffe (*State of the University of Oxford*, 1714, i. 462), eight chests, containing the registers of abbeys and other manuscripts relating to the history of England, were, after Selden's death, destroyed by fire in the Temple. Nevertheless, about eight thousand volumes, including many manuscripts and a few unique books, and many of much value, reached the Bodleian Library. Selden also bequeathed to the university of Oxford his Greek marble inscriptions about his house in Whitefriars, and his heads and statues of Greek workmanship. In Prideaux's 'Marmora Oxoniensia,' published in 1676, nine marbles are identified as forming part of Selden's bequest (Preface). One, if not all, of these sculptures came from Asia Minor ('e Graecia Asiatica,' *De Synedriis*, lib. iv. c. 14, s. 9). These marbles, like the Arundel marbles and some given by Sir George Wheeler, were originally exposed in the open air within the enclosure of the schools; in 1714 they were removed into the picture gallery; in 1749 into one of the rooms of the ground floor, and in 1888 to the university galleries. They seem to have suffered considerably while in the care of the university (Macray, pp. 190–1).

The story that Selden on his deathbed caused his papers to be destroyed (told by an anonymous writer in a Bodleian scrapbook) appears to be plainly erroneous, for there exist in the library of Lincoln's Inn five volumes of Selden's manuscripts which are partly in his handwriting and partly in that of various amanuenses. They no doubt came to Sir Matthew Hale as executor of Selden, and they were, together with other manuscripts, bequeathed by him to Lincoln's Inn; they appear to have been bound after they came into the hands of the society. They consist of copies and extracts from registers and documents of all kinds, of rough notes, of papers relative to cases in which

Selden was professionally engaged, and of a single sheet of autobiography. A catalogue of these manuscripts was prepared by the Rev. Joseph Hunter for the record commissioners, and reprinted by the society (1838). One paper in these manuscripts is interesting as the only trace of Selden's interest in natural history. It is a catalogue in his handwriting of some sixty-four birds.

It was not till 1689, when the revolution had given freedom to the press, that the ' Table Talk ' of Selden, the book by which he is generally known to fame, was first printed. This work was composed by Richard Milward, a secretary of Selden, and contains reports of Selden's utterances from time to time during the last twenty years of his life. Its authenticity was doubted by Dr. Wilkins,[1] but for reasons which have not satisfied the world; and the work may safely be accepted as the most vivid picture extant of the habits of thought and the modes of expression of the great Erastian lawyer. The conversations cover a great range of subjects relative to human life and history; but Selden was never metaphysical and rarely philosophical. The book exhibits him with a great and varied knowledge of life; as a man of strong and somewhat scornful intellect; as delighting to illustrate his discourse by similitudes; as solving all questions in church and state by a reference to one or two simple principles —the sovereignty of the state, and the contract between the sovereign and his people. ' All is as the state pleases '; ' every law is a contract between the king and the people, and therefore to be kept '—are two sentences characteristic of Selden's habitual thought. Such principles are destructive of the claims to *jus divinum* alike of kings, bishops, and presbyters; and they exclude those theories of natural right to which ardent reformers are wont to have recourse. A comparison of the style of his ' Table

[1] [This is not quite correct—see p. x above.—F.P.]

Talk ' with that of his speeches and written works supports the statement of Clarendon that he was far more direct, simple, and effective as a speaker than as a writer.

Selden's early friend, Ben Jonson, described him as ' living on his own, the law-book of the judges of England, the bravest man in all languages.' To him Jonson addressed a poetical epistle, in which he wrote :

> You that have been
> Ever at home, yet have all countries seen,
> And, like a compass, keeping one foot still
> Upon your centre, do your circle fill
> Of general knowledge; watched men, manners too,
> Heard what times past have said, seen what ours do.

Two other friends have left sketches of Selden's character. ' His mind,' says Whitelocke, ' was as great as his learning ; he was as hospitable and generous as any man ; and as good company to those whom he liked.' ' Mr. Selden,' says Lord Clarendon (*Life*, pt. i. p. 16), ' was a person whom no character can flatter, or transmit in any expressions equal to his merit and virtue. He was of so stupendous learning in all kinds and in all languages (as may appear in his excellent and transcendent writings) that a man would have thought he had been entirely conversant amongst books, and had never spent an hour but in reading and writing ; yet his humanity, courtesy, and affability was such that he would have been thought to have been bred in the best courts but that his good nature, charity, and delight in doing good, and in communicating all he knew, exceeded that breeding. His style in all his writings seems harsh and sometimes obscure, which is not wholly to be imputed to the abstruse subjects of which he commonly treated, out of the paths trod by other men, but to a little undervaluing the beauty of a style, and too much propensity to

the language of antiquity; but in his conversation he was the most clear discourser, and had the best faculty in making hard things easy, and presenting them to the understanding of any man that hath been known. Mr. Hyde was wont to say that he valued himself upon nothing more than upon having had Mr. Selden's acquaintance from the time he was very young, and held it with great delight as long as they were suffered to continue together in London; and he was very much troubled always when he heard him blamed, censured, and reproached for staying in London and in the parliament after they were in rebellion, and in the worst times, which his age obliged him to do; and how wicked soever the actions were which were every day done, he was confident he had not given his consent to them, but would have hindered them if he could with his own safety, to which he was always enough indulgent. If he had some infirmities with other men, they were weighed down with wonderful and prodigious abilities and excellencies in the other scale.'

The tone adopted by him in his discussion of the ecclesiastical questions, the devout language of his last will, and the circumstances of his deathbed, all seem to show that he was a genuine believer in Christianity as a religion having a divine origin, though he thought far otherwise of the particular modes of government and of the ceremonies of the church. His latitudinarian views, coupled probably with a cynical mode of speaking on the questions which were so keenly debated in his time, together with the fact that Selden was on friendly terms as well with Hobbes as with Archbishop Ussher, are probably the source of the rumour that Selden 'was at the heart an infidel and inclined to the opinions of Hobbs.' 'Sir Matthew Hale,' says Richard Baxter, 'oft professed to me that Mr. Selden was a resolved, serious Christian, and that he was a great adversary to Hobbs's errors, and that he had seen him openly oppose him so earnestly as either to depart

from him or drive him out of the room' (Baxter's App. to the 'Life and Death of Hale,' Hale's *Works*, 1805, i. 112).

In politics, if Selden did not exhibit the character of a hero, a martyr, or a saint, he played the part of an honest man. The fact that he was consulted alike by the commons on their rights and by the lords on their privileges is a remarkable testimony not only to his learning, but to his freedom from party bias. He seems in all cases to have maintained what he believed to be the right, and to have been diverted from this course neither by the hope of popular applause nor by the favour of the court, nor by resentment for wrongs by which many men would have been soured. His desire was for an ordered liberty, and that he thought was to be found in the ancient constitution of the country. He had no democratic feeling, and no admiration for the great mass of mankind. 'So generous,' he says, 'so ingenuous, so proportioned to good, such fosterers of virtue, so industrious, of such mold are the few; so inhuman, so blind, so dissembling, so vain, so justly nothing but what's ill disposition are the most' (Dedication to *Titles of Honour*). Nor did he cherish the sanguine belief which characterises the zealous reformer, that all change is for the better and that all movement is forward. On the contrary, he had perhaps to a degree unusual even with Englishmen the love of precedent; he felt that in the records of the race was to be found the only remedy for the shortness of the life of the individual. 'The neglect or only vulgar regard,' he says, 'of the fruitful and precious part of it [antiquity] which gives necessary light to the present in matter of state, law, history, and the understanding of good authors, is but preferring that kind of ignorance which our short life alone allows us before the many ages of former experience and observation, which may so accumulate years to us as if we had lived even from the beginning of time' (Dedication to *History of Tythes*).

Selden from first to last reserved to himself that leisure which is needful for the life of a student. But, while jealous of his studious leisure, he carried on a considerable correspondence with friends. Ben Jonson, Archbishop Ussher, Lord Conway, the universal correspondent Peiresc, Dr. Langbaine, Whitelocke, and Gerard Vossius were among his correspondents. The fragments which have survived of his correspondence with Eliot exhibit Selden in the pleasing light of a man to whom his friends turned with the certainty that his time, his trouble, and his learning would willingly be given to aid them, or even their friends. 'His mind,' says Wood, 'was as great as his learning—full of generosity, and harbouring nothing that seemed base.' So, too, in money matters Selden, though he died rich, appears to have been neither greedy in acquiring nor stingy in the spending of money, and he appears to have been liberal in his assistance to literary enterprises, such as the publication of the 'Septuagint.'

In person Selden is described by Aubrey as 'very tall—I guess six foot high—sharp, oval face, head not very big, long nose inclining to one side, full popping eie' (i.e. grey eyes). The following are the chief known portraits: In oils: an anonymous one in the National Portrait Gallery; one in the Bodleian Gallery attributed to Mytens; one in the Bodleian Library attributed to the same artist; and a second in the same library which is probably the portrait referred to by Hearne as having been placed in the library on 18 May 1708, and also by Granger, who mentions a portrait by Vandyck as in the Bodleian Library. Among engraved portraits are that prefixed to Pococke's 'Eutychius,' fol. 1658; engraved by J. Chantry, prefixed to the 'Nativity of Christ,' 1661, 8vo; by Van Hove, 1677, 12mo; prefixed to the 'Janus Anglorum,' 1682, fol., engraved by R. White; by Faber after Vandyck, 1713, 4to; by Virtue after Lely prefixed to Selden's works, edited by Wilkins, 1726; by J. Sturt after

Faithorne; by Burghers, prefixed to the catalogue of the Bodleian Library; one in Lodge's 'Portraits,' after a Mytens in the Bodleian (see Bromley, *Catalogue of Portraits*, 1795; Granger's *Biographical History*, s.v. 'Selden'; Hearne, *Remarks and Collections*, under date 19 May 1708).[1]

Alike in his Latin and in his English works, the style of Selden is prolix and embarrassed. He seems to have possessed a vast memory, and as he thought and wrote this memory seems ever to have suggested to him some collateral subject, and thus painfully to have diverted him from the direct course of his statement or argument. He is perpetually overburdened with the weight of his learning. The following is a chronological list of his works: 1. 'Jani Facies,' London, 1610, 12mo; London, 1681, 12mo, englished by Redman Westcott (i.e. Adam Littleton), and published in 'Tracts,' London, 1683, fol. 2. 'England's Epinomis,' London, 1610, and in 'Tracts,' London, 1683, fol. 3. 'Duello,' London, 1610, 4to; London, 1771 ? 4to. 4. 'Notes on Drayton,' 1612, fol. and 1613, fol. 5. 'Titles of Honour,' London, 1614, 4to; London, 1631, fol.; London, 1672, fol.; translated into Latin by Arnold, Frankfurt, 1696, 4to. 6. 'Analecton,' Frankfurt, 1615, 4to; with the 'Metamorphosis,' 1653, and with the 'Janus,' 1653, 12mo. 7. 'Notes on Fortescue,' 1616, 8vo; 1672, 12mo; 1737, fol.; 1775, fol. 8. 'De Diis Syris,' London, 1617, 8vo; Leyden, 1629, 8vo; Leipzig, 1668, 8vo; Amsterdam, 1680, 8vo; in Ugolini's 'Thesaurus,' vol. xxiii., 1744, fol.; Venice, 1760, fol.; translated by Hanson, Philadelphia, 1881. 9. 'History of Tythes,' 1618, 4to; a second edition in the same year and form. 10. 'Eadmer,' 1623, fol. 11. 'Marmora Arundelliana,' London, 1624, 4to; 1628, 4to; London, 1629, 4to. 12. 'De Successionibus,' London, 1631, 4to;

[1] [Sir E. Fry must not be read as vouching for the correctness of the attributions here mentioned.]

London, 1636, fol.; Leyden, 1638, 8vo, with 'Uxor Ebraica,' London, 1646, 4to. 13. 'Mare Clausum,' London, 1635, fol.; London, 1636, 8vo; Leyden, 1636, 4to; Amsterdam, 1636, 12mo; London, 1652, fol.; translated by Needham, London, 1663, fol., in 'Cocceii Anim. ad Grotium,' Breslau, 1752, fol. 14. 'De Successione in Pontificatum,' Leyden, 1638, 12mo, in vol. xii. of Ugolini's 'Thes.' Venice, 1651, fol. 15. 'De Jure Naturali,' London, 1640, fol.; Strasburg, 1665, 4to; Leipzig and Frankfurt, 1695, 4to; in vol. xxvii. of Ugolini's 'Thes.' Venice, 1763, fol. 16. 'Judicature in Parliament,' 1640, 4to. 17. 'Privileges of Baronage,' London, 1642, 8vo; 1689, 8vo. 18. 'Eutychius,' 1642, 4to. 19. 'De Anno Civili,' London, 1644, 4to; Leyden, 1683; in vol. xvii. of Ugolini's 'Thes.' Venice, 1755, fol. 20. 'Uxor Ebraica,' London, 1646, 4to, with the 'De Successionibus,' Frankfurt-on-Oder, 1673 and 1695, both 4to. 21. 'Fleta,' London, 1647, fol.; 1685, 4to; Leipzig, 1734, 4to; translated by Kelham, London, 1771, 8vo. 22. 'De Synedriis,' London, 1650–5, 4to; Amsterdam, 1679, 4to; Frankfurt, 1696, 4to; and epitomised by Bowyer, London, 1785, 4to. 23. 'Decem Scriptores,' London, 1653, fol. 24. 'Vindiciae,' London, 1653, fol. 25. 'On the Nativity of Christ,' London, 1661, 8vo. 26. 'Of the Office of Lord Chancellor,' edited by W. Dugdale, London, 1671, fol.; 1672, fol.; and London, 1672, 8vo. 27. 'Table Talk,' London, 1689, 4to; London, 1696, 8vo; London, 1716, 12mo; Glasgow, 1755, 12mo; London, 1777, 8vo; London, 1786, 12mo; London, 1797, 16mo; Chiswick, 1818, 12mo; Edinburgh, 1819, 12mo (in 'British Prose-Writers'), 1821, 12mo; London, 1847, 8vo; London, 1856, 8vo; Edinburgh, 1854, 8vo; reprinted by Arber, 1868; London, 1887 (in Cassell's Library),[1] 8vo; Oxford, 1892, 8vo.

[1] [This parenthesis, accidentally misplaced in D.N.B., is transposed as the sense requires.—F. P.]

Selden's works were collected by Dr. David Wilkins, London, 1726, in three volumes, folio (each volume in two parts). In addition to the works collected by Wilkins, there have been attributed to Selden: An essay 'De Juramentis,' published in the twenty-sixth volume of Ugolini's 'Thesaurus,' Venice, 1768, fol.; a work called 'Metamorphosis Anglorum,' London, 1653, 8vo; 'A Brief Discourse concerning the Powers of Peers and Commons, by a Learned Antiquary,' 1640, 4to; and a treatise, 'De Nummis,' London, 1675, which was really the work of Alessandro Sardi.

A 'Discourse on the Laws and Government of England,' by Nathaniel Bacon, was said to be collected from some manuscript notes of Selden, and was published in 1649, and again in 1672, 1682, 1689, and 1760. In the advertisement to the edition of 1689 it is said that Lord Chief Justice Vaughan had owned that the groundwork of this book was Selden's.

[For the life generally: the Vita by Wilkins, prefixed to his edition of the works; Wood's Athenae, s.v. 'Selden'; Aubrey's notes in Bliss's edition of Wood. For early life: epitaph in Temple Church; manuscript fragment of autobiography in Selden MSS. in Lincoln's Inn Library, catalogued xii. (xiii.) No. 42; parish register and parish account-books of West Tarring. For his connection with Inner Temple: the entries in the parliament books under respective dates. For his History of Tythes and the attending circumstances: Selden's Treatises of the Purpose and End, &c.; reply to Tilsley; preface to the three tracts. For his political life: the Eliot Papers in Forster's John Eliot, 2nd edit.; Selden's speeches and arguments in Works; Rushworth, vols. i. ii. vi.; Journals of the House of Commons; the Calendars of State Papers; Whitelocke's Memorials; Clarendon's History, bk. v. For his imprisonments: Vindiciae; the Eliot Papers, ubi supra; the Calendars,

Rushworth, vol. ii. Whitelocke. For his pecuniary affairs: will of the Countess of Kent, in registry of probate division; will and codicil of Selden in Wilkins's Life. For his proceedings in reference to the university of Oxford: Wood's Annals of the University, vol. ii., and correspondence in Wilkins's Life (cf. Notes and Queries, 8th ser. xii. 344). For his sculptures: Prideaux's Marmora Oxoniensia; Chandler's edition of the same work; Michaelis's Ancient Marbles in Great Britain, and Macray's Annals of the Bodleian Library, 2nd edit. For his library: Macray's Annals. Professor Margoliouth has supplied the account of Selden's oriental learning on pp. 171-174.]

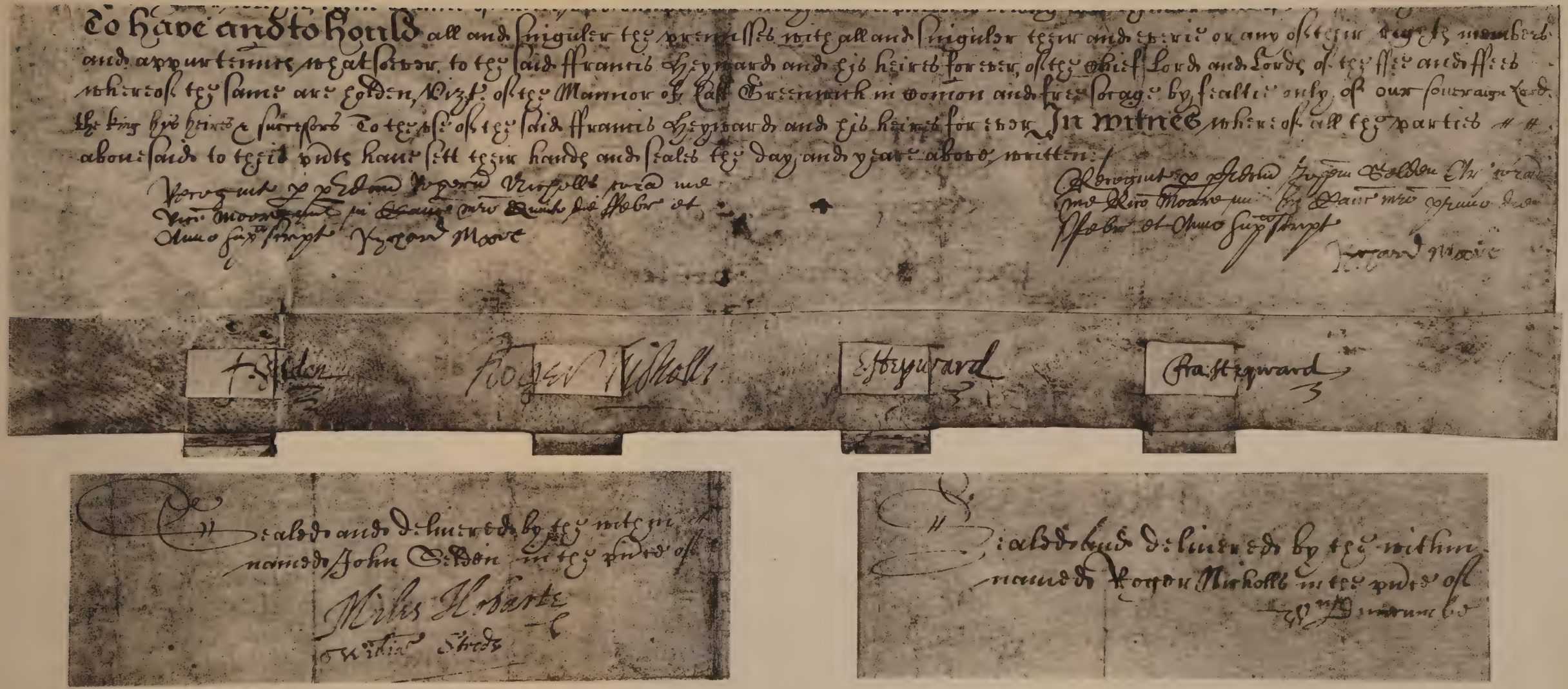
NOTE ON A DEED BELONGING TO THE SOCIETY EXECUTED BY JOHN SELDEN.

On 23 January 1630 John Selden and Roger Nicholls described as of the Inner Temple London Esquire by the Deed conveyed the manor of Kerdeston and other manors in Norfolk to Francis Hayward of the City of Norwich at the request of Edward Hayward Esquire of Kerdeston.

Selden acknowledged his signature before the Master in Chancery Sir Richard Moore on the 1st of February and Nicholls on the 5th of February.

On the dorse of the Deed are the signatures of the witnesses to the sealing of Selden and Nicholls. These were Sir Miles Hobart and William Strode to the signature of Selden, and William Duncumbe to that of Roger Nicholls.

At the time the Deed was executed Hobart, Strode, and Selden were in the custody of the Keeper of the Gate House Prison. They had been concerned with the proceedings in the House of Commons on 2 March 1628, when Mr. Speaker Finch was forcibly held in the chair whilst the Commons made their remonstrance against taxation without the authority of Parliament. Sir Miles Hobart's part in the proceedings was to lock the door of the House, and put the key in his pocket to prevent timid members leaving the House. The chief movers in this remonstrance, including Selden, Hobart, and Strode, were summoned before the Privy Council on the 3rd of March, and as they refused to attend they were imprisoned by the King, Selden being taken into custody



FACSIMILE OF PART OF DEED EXECUTED BY SELDEN

To face p. 186.

on the 4th of March; but Strode escaped capture and a proclamation was issued for his arrest on the 20th of March. He was committed to the custody of the Marshal of the King's Bench on the 1st of April.

As is mentioned in the article from the *Dictionary of National Biography*, Selden, Hobart, and Strode were unsuccessful in sueing out writs of habeas corpus and were kept prisoners first at the Marshalsea. According to the State Trials, vol. iii. p. 291, the Attorney General on the day the Deed was executed exhibited informations against Hobart and Strode for breaking prison. Although the report does not mention it, Selden was also indicted at the same time for this offence and appeared thereto on the 10th of February and pleaded not guilty: see Coram Reg. Roll. Hil. 6. Car. I. part 3.

Of the persons whose signatures are on the Deed the following is known: William Strode was the son of Sir William Strode of the county of Devon and was admitted a student of the Inner Temple in 1614, and in 1628 represented Beeralston in Parliament.

Roger Nicholls was called to the Bar by the Inner Temple on 30 January 1613/4, and was steward to Readers' dinner in 1630/1 with Selden.

Edward Heyward, who was called to the Bar by the Inner Temple on 16 April 1618, served as steward to Readers' dinner in 1631 and 1636/7, and was with Sir Henry Croke absolved from that office in 1638. Edward Heyward and Nicholls, before they were called to the Bar, obtained on 27 November 1608 permission from the Benchers of the Inner Temple to erect for Chambers a 'substantial building within the Nourcerie Pale beginning at the west end before Stewards Buildings and so taking four score and ten feet or thereunto in length by the said pale towards the east and twenty eight feet or thereunto in breadth towards the South.

The said Edward Heyward to have the nomination of persons to be admitted to Chambers on the said building.' This site was found not to be convenient, ' and as they have been at great cost in providing their frame and bringing bricks ' it was referred to a committee to find another place. On 28 May 1609 licence was given them to ' erect a building four score and eight feet in length and six and twenty feet in breadth and four stories high (the first storey to be of brick) between the conduct head and the Gardeners House.' The house erected was on the site of the present Paper Buildings.

Edward Heyward died in 1658, etat. 64, and was buried at Repham Parish Church, Norfolk. The following inscription was on his tombstone:

> ' In Memory of Edward the Eldest Son of Richard Heyward, in birth not obscure, of part eminent, in the academy a precious ornament in the theory of all sciences, dignified in the worshipful society of the Inner Temple, a patron of justice in his country, laudable in his life, peaceable in his death.'

Sir Richard Moore, the Master in Chancery before whom Selden and Nicholls appeared to acknowledge their signatures, was an assistant of the bench of the Middle Temple and was buried in the Temple Church on 11 April 1635 ' in the Chancell ile against the Benchers' pews on the Middle Temple side.'

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